

<div>1</div> <div> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 District of Massachusetts</p> <p>3 Civil Action No. 1:21-CV 11457-GAO</p> <p>4</p> <p>5 SHIRLEY A. GOODE and SEAN GOODE,)</p> <p>6 Plaintiffs)</p> <p>7 VS.)</p> <p>8 DANIEL SMITH and CITY OF BOSTON,)</p> <p>9 Defendants)</p> <p>10</p> <p>11 ZOOM DEPOSITION OF JAMES W. CROSBY,</p> <p>12 called on behalf of the Defendants, taken pursuant to</p> <p>13 the provisions of the Federal Rules of Civil Procedure,</p> <p>14 before Patricia M. Haynes, a Certified Shorthand</p> <p>15 Reporter and Notary Public in and for the Commonwealth</p> <p>16 of Massachusetts, CSR No.: 146202F, at the law division</p> <p>17 of the City of Boston, 1 City Hall Square, Room 615,</p> <p>18 Boston, Massachusetts, on Friday, June 23, 2023,</p> <p>19 commencing at 10:00 a.m.</p> <p>20</p> <p>21 ELLEN M. FRITCH & ASSOCIATES</p> <p>22 363 SILVER STREET</p> <p>23 BOSTON, MASSACHUSETTS 02127</p> <p>24 617-269-5448</p> </div>	<div>3</div> <div> <p>1 INDEX</p> <p>2 <u>Witness Direct Cross Redirect Recross</u></p> <p>3 JAMES W. CROSBY</p> <p>4 (By Ms. Davidson) 4 140</p> <p>5 (By Mr. Abbas) 136</p> <p>6 <u>EXHIBITS</u></p> <p>7 Exhibit No. Page</p> <p>8 1 Law Enforcement Dog Encounter 20</p> <p>9 Training Manual</p> <p>10 2 Expert report 57</p> <p>11 3 Photograph 98</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> </div>
<div>2</div> <div> <p>1 APPEARANCES:</p> <p>2</p> <p>3 CITY OF BOSTON</p> <p>4 (By: Bridget I. Davidson, Esquire)</p> <p>5 1 City Hall Square, Room 615</p> <p>6 Boston, Massachusetts 02201</p> <p>7 Counsel for the Defendants</p> <p>8 Bridget.davidson@boston.gov</p> <p>9</p> <p>10 UPPER CHARLES LAW GROUP</p> <p>11 (By: Daniel Abbas, Esquire)</p> <p>12 81 Hartwell Avenue, Suite 101</p> <p>13 Lexington, Massachusetts 02421</p> <p>14 Counsel for the Plaintiff</p> <p>15 Dabbas@uclawgroup.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> </div>	<div>4</div> <div> <p>1 PROCEEDINGS</p> <p>2 <u>JAMES W. CROSBY,</u></p> <p>3 of lawful age, being first properly and satisfactorily</p> <p>4 identified by the production of driver's license, and</p> <p>5 duly sworn by a Notary Public to tell the truth, the</p> <p>6 whole truth, and nothing but the truth, deposes and says</p> <p>7 as follows in answer to direct interrogatories by Ms.</p> <p>8 Davidson.</p> <p>9 DIRECT EXAMINATION BY MS. DAVIDSON:</p> <p>10 Q. Good morning, Mr. Crosby.</p> <p>11 A. Good morning.</p> <p>12 Q. My name is Bridget Davidson, and I represent</p> <p>13 Officer Smith in this matter Goode versus Smith. Can</p> <p>14 you state your full name for the record, please?</p> <p>15 A. Yes, Doctor James W. Crosby, C-R-O-S-B-Y.</p> <p>16 Q. I'm just going to go over the ground rules and</p> <p>17 normal stipulations.</p> <p>18 MS. DAVIDSON: Are you good with that?</p> <p>19 MR. ABBAS: Yes.</p> <p>20 MS. DAVIDSON: So for the record, reserve</p> <p>21 all objections, except as to form, and all motions to</p> <p>22 strike until the time of trial. The witnesses shall</p> <p>23 read and sign the transcript under the pains and</p> <p>24 penalties of perjury within 45 -- is that what we've</p> </div>

1 been doing in this case?

2 MR. ABBAS: We have been doing 60.

3 MS. DAVIDSON: So within 60 days of
4 receiving it. And failure to do so will indicate that

10:02:29AM

5 all testimony is truthful and accurate, and we will
6 waive the signing of the notary.

7 BY MS. DAVIDSON:

8 Q. With that being said, Doctor Crosby, of course
9 you understand that you're under oath today, correct?

10:02:43AM

10 A. Yes.

11 Q. And is there anything that would prevent you
12 from testifying honestly today?

13 A. No.

14 Q. According to your CV, you've been a certified
15 behavior consultant expert witness from 2013 to the
16 present. Is that correct?

10:02:57AM

17 A. That's approximately correct, yes.

18 Q. Is being a certified behavior consultant
19 expert witness your full-time job right now?

10:03:17AM

20 A. I'm a retired police lieutenant from the
21 Jacksonville, Florida, sheriff's office. In
22 Jacksonville, we are a combined department, so it's the
23 office of the sheriff but we are the municipal police
24 department also. I retired as a lieutenant from there,

1 so that forms the majority of my income. I do expert
2 witness and expert consultations on both dog aggression,
3 specifically fatal dog attacks but dog bites in general.

4 I also do consulting and investigations on
5 police use of force regarding encounters with domestic
6 dogs. And I'm the author of the current curriculum
7 approved by the U.S. Department of Justice on law
8 enforcement dog encounters.

10:03:59AM

9 So that legal consulting is a portion of my
10 income, but my primary income is from my retirement as a
11 police officer.

12 Q. Okay. And you've been retained by the law
13 firm Upper Charles Group on behalf of their clients
14 Shirley and John Goode in this case, correct?

10:04:45AM

15 A. That's correct.

16 Q. And when were you retained in this case as an
17 expert?

18 A. I would have to look at the records to find
19 the date of the first e-mail from Mr. Abbas.

10:04:56AM

20 Q. Do you know what year?

21 A. Last year? It's been a bit of awhile. I
22 think, I'm guessing probably last year.

23 Q. What are your rates as an expert in this case?

24 A. My hourly rate is \$200 per hour. My flat rate

1 for handling a case is \$5,000 plus travel and expenses
2 if necessary, plus \$1,000 per day of trial if I'm
3 required to travel for trial. And if I am kept on site
4 to simply witness days of trial but I'm not testifying,
5 that's \$500 per hour.

10:05:45AM

6 Q. Without getting into any communications you've
7 had with your attorney, Attorney Abbas, what is your
8 understanding of what you are retained to do in this
9 case?

10:05:59AM

10 A. I was retained to examine the encounter and
11 circumstances around it between Officer Smith and the
12 dog known as Chyna that occurred during a police action
13 at, I don't know right off the top of my head, remember
14 the name of the two streets, I don't know Boston, but
15 during a police action there and to examine the reported
16 behavior of the dog, Chyna, to examine the use of force
17 by Officer Smith, to look at the options that were
18 available to him at the time for other actions.

10:06:24AM

19 And to determine in my opinion as to whether
20 the dog, Chyna, presented a valid threat of death or
21 serious injury and whether Smith's responses to Chyna's
22 presence were, I'm not going to say reasonable because
23 that's a legal definition, but if they were appropriate
24 proportionate to the situation.

10:06:56AM

1 And if there were other effective and safe
2 methods by which he could have safely maintained space
3 between himself and the dog, Chyna.

4 Q. How many hours have you worked on this case?

10:07:45AM

5 A. Probably 15 to 20 so far.

6 Q. Have you ever worked with the law firm The
7 Upper Charles Group before?

8 A. No, I have not.

9 Q. Have you ever worked with Attorney Abbas
10 before?

10:08:02AM

11 A. No, I have not.

12 Q. Were you familiar with this case before you
13 were retained by the plaintiffs?

14 A. No, I was not.

10:08:11AM

15 Q. Had you formed any personal opinions about
16 this case before you were retained?

17 A. No.

18 Q. Have you testified before as an expert
19 certified behavior consultant at trial or deposition?

10:08:28AM

20 A. Many times.

21 Q. About how many times?

22 A. My CV would show the actual number, but I have
23 testified quite a few times in municipal state, superior
24 and federal districts and have been accepted as an

1 expert in canine aggression, canine bites, the behavior
2 of dogs, use of force by police regarding dogs
3 specifically, and other associated -- for instance, use
4 of less nonlethal force methods in those cases.

10:09:14AM

5 Q. About how many times have you testified in
6 Massachusetts?

7 A. Three or four on dangerous dog cases. Those
8 have been in municipal and county courts to date.

9 Q. Were any in the federal court?

10:09:40AM

10 A. Not yet.

11 Q. What types of clients typically hire you?

12 A. I've been hired both by plaintiffs and
13 defendants in cases, in some cases where police have
14 deployed less lethal or lethal force against domestic
15 companion dogs.

10:10:08AM

16 I've testified in federal court on dog attacks
17 and dog fatalities. I've testified in federal court on
18 dog behavior as it applies to breed perceptions and the
19 scientific basis behind breed assumptions that are made
20 based on physical appearances.

10:10:36AM

21 Q. Have you ever been disqualified as an expert
22 witness by the court in which you had been retained?

23 A. No.

24 Q. In all the times that you've testified in the

1 past, how many occasions have you testified for the
2 plaintiff's side?

3 A. It breaks about 50-50 over time. Sometimes,
4 for instance, I am retained on the side of the dog
5 owner, sometimes I'm retained by a person who was
6 attacked or bitten by a dog.

10:11:14AM

7 I have been consulted, although not retained,
8 by police departments to review cases that they have had
9 officers involved -- for instance, one case was
10 evaluating the bites received by a police K-9 dog in a
11 deployment where there was a question as to whether the
12 officer had properly deployed the dog or not.

10:11:39AM

13 Q. I know you do different types of dog cases, so
14 kind of honing in the type of dog case we are on here
15 for today, how many for the use of force have you
16 testified on behalf of plaintiffs?

10:12:06AM

17 A. I think it's eight or ten, maybe a dozen at
18 this point. That would be both in state and federal
19 courts.

10:12:21AM

20 Q. Can you give me the details of some of those
21 cases?

22 A. Certainly. For instance, a case in Colorado.
23 A police officer, police officers responded to a case of
24 an uncontrolled dog. The animal control officer was

1 there and took the dog onto a catch pole and secured it
2 and one of the officers then improperly and needlessly
3 reached around, literally around the animal control
4 officer and shot the dog that was contained six times
5 from behind killing the dog.

10:12:59AM

6 Officers in Texas searched a house on an alarm
7 using it as a training exercise and the two
8 unexperienced officers on sight of the dog who was
9 presenting no threat shot the dog repeatedly and killed
10 it on its bed.

10:13:22AM

11 Federal officials in New York City were
12 serving an arrest warrant and from a position of safety
13 they shot a dog in the backyard with which they did not
14 have to have any contact at all.

10:13:42AM

15 Similarly in Nevada, there have been several
16 cases where the SWAT team in more than one jurisdiction
17 have gone in and in one case, for instance, from the top
18 of a fence looking over a fence from an adjoining yard
19 to where they were operating needlessly shot a
20 neighbor's dog because it barked.

10:14:05AM

21 Q. Do you know the names of any of those cases?

22 A. All of the names of those cases are in my CV.

23 Q. Okay. Have you testified on behalf of

24 defendants in a use of force case involving an animal?

1 A. Testified on behalf of the defendant, you mean
2 the shooting officer?

3 Q. Yes. So for a police department or individual
4 officer?

10:14:46AM

5 A. No, I have not had to testify in those. There
6 have been a number of cases that I have refused to take
7 when my review of the case showed that the officer was
8 acting what I felt was reasonably appropriately and was
9 doing what had to be done to save lives.

10:15:09AM

10 Q. Can you describe your education for me,
11 please?

12 A. Yes. I have a bachelor's degree with a major
13 in psychology. I have a master of science degree from
14 the College of Veterinary Medicine at the University of
15 Florida in veterinary medical science, specifically
16 veterinary forensics. And I also have a doctoral
17 degree, a Ph.D., from the College of Veterinary Medicine
18 at the University of Florida in veterinary medical
19 science.

10:15:27AM

20 My particular topic was investigating the
21 physical evidence and the behaviors involved in dog
22 bite-related fatalities to humans.

10:15:46AM

23 Q. Can you please list for me the licenses and
24 certifications that you currently hold?

10:16:27AM 1 A. I am certified as a certified behavior
2 consultant canine by the Council for Certification of
3 Professional Dog Trainers. I am certified as a
4 certified dog behavior consultant by the International
5 Association of Animal Behavior Consultants. I am an
6 evaluator for the American Kennel Club's Canine Good
7 Citizen Program.

10:16:55AM 8 I'm thinking of certifications versus courses
9 and so forth. As far as licensing, I have a business
10 license in the state of Florida as a consulting
11 business. That's pretty much the official
12 certifications.

10:17:14AM 13 I have attended a lot of seminars and so forth
14 that give certificates, but I wouldn't necessarily say
15 that they certified me and so forth. I was until my
16 retirement a certified police officer in the state of
17 Florida.

10:17:35AM 18 I am also, I have been certified as an animal
19 control officer by the state of Florida, which status I
20 believe is still open even though I'm not actively
21 working as an animal control officer at this time.

22 Q. Do you hold any other licenses or
23 certifications that have since expired besides the
24 police one you just referred to?

10:18:12AM 1 A. I was a certified professional dog trainer. I
2 was certified by the Counsel for Certification of
3 Professional Dog Trainers. But I let that expire and
4 proceeded to the more involved certification as a
5 behavior consultant.

6 Q. Can you list the professional organizations
7 that you're a part of?

10:18:53AM 8 A. Yes. I belong to the Association of
9 Professional Dog Trainers. I belong to the
10 International Veterinary Forensic Science Association.
11 I'm a member of the American Academy of Forensic
12 Scientists. I'm a member of the Animal Behavior
13 Society.

10:19:12AM 14 I'm a member of -- let me look. There's a
15 bunch of organizations and I want to -- it's in my CV.
16 I don't want to miss a whole lot here. Just one moment.
17 Sometimes it's hard to keep track of everything. So
18 let's see.

10:19:50AM 19 The American Academy of Forensic Sciences,
20 International Veterinary Forensic Science Association.
21 I'm a Board of Directors member of the Council for
22 Certification of Professional Dog Trainers. I'm a
23 member of the National Sheriff's Association and a
24 member of the President's Committee on Animal Abuse for

1 the National Sheriff's Association. I was a member of
2 the National Animal Care and Control Association,
3 although I think my dues may have expired there.

10:20:18AM 4 I'm a member of the International Association
5 of Animal Behavior Consultants, the Animal Behavior
6 Society, the Animal Behavior Management Alliance, the
7 Florida Association for Behavior Analysis.

10:20:49AM 8 I am one of the co-chairs of the Police Dog
9 Encounter Training section of the National Coalition
10 Against Violence Against Animals. I have served on the
11 Board of Directors of the Florida Animal Control
12 Association.

10:21:15AM 13 I am a member and past president of the Curly
14 Coated Retriever Club of America. That's the parent
15 breed club for my breed of dogs within the AKC. And I
16 used to belong to the Professional Retriever Trainers
17 Association.

18 Q. I see that you're referring to a specific
19 document. What specific document are you referring to?

10:21:35AM 20 A. That's the CV that Mr. Abbas has on file for
21 me.

22 Q. Are there any other documents that are in
23 front of you today for you to refer to during this
24 deposition?

10:22:13AM 1 A. I have a copy of the report I sent in dated 8
2 June 2023. As far as paperwork, I don't have anything
3 else in front of me, although I do have immediate access
4 to the discovery materials in this case and can open any
5 of those documents to which I'm directed.

6 Q. Do you currently hold any teaching positions?

10:22:42AM 7 A. I do teach various classes online and travel
8 to various seminars and conferences. I'm not attached
9 to the staff of any university or educational
10 institution at this time.

11 Q. What type of classes are those that you
12 generally teach?

10:23:02AM 13 A. I teach, I've taught repeatedly a class called
14 the Forensics of Aggression. I teach classes to police
15 departments on the curriculum law enforcement dog
16 encounter training as approved by the Department of
17 Justice that was sponsored by the National Sheriff's
18 Association.

10:23:20AM 19 I teach classes on dog bite investigation. I
20 teach classes on dog aggression and on working with and
21 dealing with aggressive and dangerous dogs. I teach
22 classes to animal control officers on determination of
23 dangerous dogs and investigation of dog bites in
24 response to dog bite complaints.

<p>17</p> <p>1 I've taught obedience classes to both owners</p> <p>2 and to other trainers. I've presented seminars on</p> <p>3 various topics regarding, to trainers and trainer</p> <p>4 conferences regarding dealing with aggressive dogs,</p> <p>10:24:06AM 5 forming treatment plans and rehabilitation for</p> <p>6 aggressive or allegedly aggressive animals.</p> <p>7 I've taught police officers on how to</p> <p>8 investigate police-related dog encounters and use of</p> <p>9 force. I've taught smaller classes on the use of less</p> <p>10:24:32AM 10 and nonlethal methods in dealing with dogs for police</p> <p>11 officers. And also I've taught police officers on the</p> <p>12 interpretation of canine behavior, body language and so</p> <p>13 forth, towards keeping them and the dog safe.</p> <p>14 Q. What police departments have you taught these</p> <p>10:24:54AM 15 trainings to?</p> <p>16 A. The most recent department was to the training</p> <p>17 staff of the Miami Dade Metro Police Department. I've</p> <p>18 taught various others, including the Las Vegas police,</p> <p>19 the Nevada police, groups of police officers and at</p> <p>10:25:17AM 20 various conferences from multiple departments.</p> <p>21 I've taught to a group of police officers at a</p> <p>22 couple of jurisdictions in Georgia. I've taught in two</p> <p>23 jurisdictions in Louisiana. We are talking about</p> <p>24 training in Maryland. I've also taught to police and</p>	<p>19</p> <p>1 I have blog posts that are out there and are</p> <p>2 referenced. I've written a few articles, for instance,</p> <p>3 for the Florida Animal Control Association, their</p> <p>4 publication. A couple of others. As I said, they are</p> <p>10:27:54AM 5 listed on the CV.</p> <p>6 Q. Is your CV updated to everything that you</p> <p>7 published?</p> <p>8 A. Yes. Although to include this case, I'll</p> <p>9 probably be sending Mr. Abbas an updated, up to the</p> <p>10:28:18AM 10 minute CV.</p> <p>11 Q. Did you co-author a publication known as The</p> <p>12 Law Enforcement Dog Encounter Training?</p> <p>13 A. I was the author of that publication, yes.</p> <p>14 There was some editing input from another person, and</p> <p>10:28:37AM 15 the review of literature contained some input from my</p> <p>16 co-author for that publication, if you will. But the</p> <p>17 curriculum and manual and so forth I was the author of,</p> <p>18 yes.</p> <p>19 Q. When did you write that publication?</p> <p>10:29:01AM 20 A. It was written between about 2017 and 2019 and</p> <p>21 was released, approved by the Department of Justice and</p> <p>22 released widely in 2019.</p> <p>23 Q. I'm going to share my screen with you. Can</p> <p>24 you see the screen?</p>
<p>18</p> <p>1 animal control officers in Australia, in the United</p> <p>2 Kingdom and in Canada.</p> <p>3 Q. You just mentioned that you're currently</p> <p>4 working on teaching in Maryland. Have you taught in</p> <p>10:26:13AM 5 Maryland yet?</p> <p>6 A. No. That's an upcoming class that we are</p> <p>7 putting together.</p> <p>8 Q. Have you taught any police officers out of</p> <p>9 Massachusetts?</p> <p>10:26:24AM 10 A. I have not taught in Massachusetts. I don't</p> <p>11 know if officers from Massachusetts may have attended</p> <p>12 trainings elsewhere.</p> <p>13 Q. Fair enough. Have you written any articles or</p> <p>14 publications in the last ten years?</p> <p>10:26:45AM 15 A. Yes, and those are listed under the</p> <p>16 publication section of my CV. But the high points, if</p> <p>17 you would, would be the Law Enforcement Dog Encounter</p> <p>18 Training. And the manual for that is produced for the</p> <p>19 National Sheriff's Association and DOJ.</p> <p>10:27:08AM 20 My doctoral thesis on dog bite related</p> <p>21 fatalities against humans. My master's thesis, which is</p> <p>22 available both through the University of Florida's</p> <p>23 library on the use of evidence procedures and evidence</p> <p>24 in investigating fatal dog attacks.</p>	<p>20</p> <p>1 A. Yes.</p> <p>2 MS. DAVIDSON: I'll mark this as Exhibit</p> <p>3 1.</p> <p>4 (Document marked for identification as</p> <p>10:30:04AM 5 Exhibit No. 1.)</p> <p>6 BY MS. DAVIDSON:</p> <p>7 Q. Is this The Enforcement Dog Encounter Training</p> <p>8 that you referred to that you published?</p> <p>9 A. This is part of the package. This is the tool</p> <p>10:30:14AM 10 kit that contains the review of the literature. This is</p> <p>11 a separate document from the primary course and is a</p> <p>12 separate document from the course manual.</p> <p>13 This contains work by myself and as I said</p> <p>14 with the review of literature and some of the guidelines</p> <p>10:30:42AM 15 -- or not guidelines -- but there was some contribution</p> <p>16 in this portion of the program by Chelsea Rider who was</p> <p>17 an employee of the National Sheriff's Association who is</p> <p>18 now doing something else.</p> <p>19 Q. Do you agree with everything in this tool kit</p> <p>10:31:09AM 20 publication?</p> <p>21 A. As far as I know, yes. Everything I looked</p> <p>22 over prior to publication. The things I wrote I</p> <p>23 definitely agree with. The information contributed by</p> <p>24 Ms. Rider, I don't remember having any disagreements</p>

<div>21</div> <div>1 with her. So as far as I can tell without, I haven't</div> <div>2 read over this document in quite awhile, but as far as I</div> <div>3 can tell, unless some other evidence has come up to</div> <div>4 change my opinion on something, I stand behind this</div> <div>10:31:48AM 5 document.</div> <div>6 Q. Are you aware if Massachusetts has any current</div> <div>7 legislation on police officers receiving training on</div> <div>8 animal encounters?</div> <div>9 A. I don't believe that requirement has been</div> <div>10:32:05AM 10 passed. I know that in multiple states there are bills</div> <div>11 in progress. I'm not sure what the progress is at this</div> <div>12 moment in the state of Massachusetts.</div> <div>13 Q. Are you aware if any of that current</div> <div>14 legislation, does it involve dogs or is it specific to</div> <div>10:32:25AM 15 dogs?</div> <div>16 A. I haven't looked at the current session</div> <div>17 documents from Massachusetts. I don't know what's going</div> <div>18 on right now.</div> <div>19 Q. Do trainings involving animal encounters</div> <div>10:32:39AM 20 generally include dogs?</div> <div>21 A. Most trainings that I'm aware of regarding</div> <div>22 animal encounters are focused primarily on dogs. In</div> <div>23 rural areas, they may be teaching officers how to safely</div> <div>24 deal with cattle or horses or snakes and spiders, I</div>	<div>23</div> <div>1 with the law enforcement dog encounters training, I've</div> <div>2 probably maybe run a couple of hundred officers through</div> <div>3 that training.</div> <div>4 Q. What were the name of those classes?</div> <div>10:35:15AM 5 A. The law enforcement dog and training encounter</div> <div>6 training classes, along with seminars I gave at various</div> <div>7 animal control/police conferences and seminars before</div> <div>8 that. Plus the pilot trainings during the development</div> <div>9 of the LEDT class for DOJ.</div> <div>10 And other particular trainings for individual</div> <div>11 departments, like the Holly Hill, Florida, police</div> <div>12 department and Nye County sheriffs. I've taught in a</div> <div>13 couple of their academies.</div> <div>14 The training in the academies in Nevada was in</div> <div>10:36:07AM 15 addition to having trained the deputies, all the</div> <div>16 deputies in that department so that their oncoming</div> <div>17 officers would receive adequate training during their</div> <div>18 academy time.</div> <div>19 Q. Roughly about how many officers do you think</div> <div>10:36:26AM 20 you've trained in the use of force when it comes to</div> <div>21 dealing with animals?</div> <div>22 A. Directly? Probably about 200, plus or minus a</div> <div>23 few. And probably more than that because I also did an</div> <div>24 online course that's still available for Justice</div>
<div>22</div> <div>1 don't know. But the training I'm aware of almost</div> <div>2 exclusively focuses on dog encounters.</div> <div>3 Q. Shifting gears a little bit. Do you have a</div> <div>4 background as a police officer?</div> <div>10:33:14AM 5 A. Yes.</div> <div>6 Q. When did you first start as a police officer?</div> <div>7 A. I started as a police officer in Jacksonville,</div> <div>8 Florida, in 1977. I went through the police academy</div> <div>9 there, served as a patrolman for several years. And</div> <div>10:33:36AM 10 then after about ten years, I was promoted to sergeant</div> <div>11 in which case I was still out on the street. And I was</div> <div>12 in charge of a squad in various positions that ranged</div> <div>13 from six or seven officers to ten or 12 plus.</div> <div>14 I was a field training officer supervisor. So</div> <div>10:34:01AM 15 we also had the responsibility for officers in the field</div> <div>16 training program. After that, I was promoted to</div> <div>17 lieutenant and served about 6-1/2 years as a watch</div> <div>18 commander, which meant I had up to four sergeants and 40</div> <div>19 officers, plus whatever rookies in the field training</div> <div>10:34:28AM 20 program were assigned to my officers during that time.</div> <div>21 And I retired with full benefits in 1999.</div> <div>22 Q. You took care of the next question. Have you</div> <div>23 trained any police officers on the use of force?</div> <div>24 A. Quite a few. Since we have been doing this</div>	<div>24</div> <div>1 Clearing House, which is available to police officers.</div> <div>2 And I don't honestly know how many officers they have</div> <div>3 had complete that training.</div> <div>4 Q. Is that a training that's just for police</div> <div>10:36:59AM 5 officers?</div> <div>6 A. To the best of my knowledge, yes. It's</div> <div>7 through a company called Justice Clearing House, and</div> <div>8 they focus on the police community.</div> <div>9 Q. Is it fair to say that your trainings in the</div> <div>10:37:18AM 10 use of force have been basically specific to dealing</div> <div>11 with animals?</div> <div>12 A. Oh, yeah. The classes I've taught on the use</div> <div>13 of force, although I used comparisons to human</div> <div>14 situations so that officers understand since they have</div> <div>10:37:39AM 15 typically had so much training in use of force against</div> <div>16 humans so they understand the parallels and they</div> <div>17 understand that many of the same techniques and less</div> <div>18 nonlethal tools are just as or more effective with pets,</div> <div>19 particularly dogs, as they are with humans.</div> <div>10:38:00AM 20 Q. Do you roughly know about how many hours you</div> <div>21 spent training officers in this area?</div> <div>22 A. I couldn't even make an educated guess at this</div> <div>23 point. The law enforcement dog encounter training</div> <div>24 course, for instance, is eight hours on its own.</div>

<div>25</div> <div>1 Q. Does the training consist of classroom and an</div> <div>2 interactive component?</div> <div>3 A. Yes, it does. The classroom, I do demonstrate</div> <div>4 techniques during the class, in the classroom. And a</div> <div>10:38:34AM 5 portion of the course is available to departments that</div> <div>6 own a simulator system by a company called Virtra. And</div> <div>7 as part of that segment of the simulator situations, the</div> <div>8 dog can directly interact or --</div> <div>9 Sorry, the officers, dogs do too, but the</div> <div>10:39:08AM 10 officers can directly in real time interact with live</div> <div>11 scenarios of different kinds and deploy and make choices</div> <div>12 based on the situation presented.</div> <div>13 And those situations can, they do range from</div> <div>14 responses that are, range from vocal direction. In</div> <div>10:39:32AM 15 other words, "Dog, no, sit," or, "Get your dog," to the</div> <div>16 actual justified use of deadly force.</div> <div>17 Q. Based on your experience, is it fair to say</div> <div>18 that you have an understanding when police officers are</div> <div>19 allowed to use force?</div> <div>10:39:54AM 20 A. Yes.</div> <div>21 Q. And can you walk me through that a little bit?</div> <div>22 A. The use of deadly force is typically across</div> <div>23 the United States restricted to those incidents where</div> <div>24 there is a credible and reasonable perception of the</div>	<div>27</div> <div>1 if they have a proper backdrop and if it is within their</div> <div>2 department's policies, that would be a situation where</div> <div>3 it would be perfectly reasonable to, in my opinion, use</div> <div>4 deadly force to cease the attack and to save the</div> <div>10:42:20AM 5 person's life.</div> <div>6 Q. Would that situation change if that victim was</div> <div>7 being attacked by the dog was a police officer?</div> <div>8 A. No. If the dog was actively attacking and</div> <div>9 engaged with one of their officers and, you know, a</div> <div>10:42:41AM 10 quick response yelling or whatever didn't deflect</div> <div>11 officer, then again if it's appropriate within their</div> <div>12 department's rules and the laws of their jurisdiction</div> <div>13 and if they have a safe shot where the possibilities of</div> <div>14 ricochet or hitting an innocent civilian or whatever are</div> <div>10:43:08AM 15 minimized, then absolutely take the shot.</div> <div>16 Q. And in your capacity as a police officer,</div> <div>17 other than when you were at the range, did you ever have</div> <div>18 to discharge your firearm?</div> <div>19 A. Yes.</div> <div>10:43:18AM 20 Q. And when was that, what were the circumstances</div> <div>21 of that?</div> <div>22 A. All of them were involving human targets.</div> <div>23 Actually, one was disabling a fleeing vehicle that had</div> <div>24 hit and run from an encounter with a police officer</div>
<div>26</div> <div>1 threat of severe injury or death to the officer or to</div> <div>2 another person.</div> <div>3 Less lethal force deployment varies across</div> <div>4 jurisdictions, but it's typically recommended as the</div> <div>10:40:34AM 5 preferred manner of dealing with threats whenever</div> <div>6 possible because the mission focus is whatever you're</div> <div>7 doing to use the minimal force necessary to complete</div> <div>8 your mission safely.</div> <div>9 Q. Have you trained officers when they can use</div> <div>10:40:58AM 10 deadly force?</div> <div>11 A. During the dog training classes, yes, I</div> <div>12 explain very clearly that there are times where deadly</div> <div>13 force, depending on their department's rules and</div> <div>14 regulations and state and local laws, deadly force may</div> <div>10:41:18AM 15 be the appropriate response.</div> <div>16 Q. And what did you teach police officers in</div> <div>17 terms of when they can use deadly force in those dog</div> <div>18 encounter situations or animal encounter situations?</div> <div>19 A. A specific illustration of such a situation</div> <div>10:41:37AM 20 would be if the officer comes around the corner and</div> <div>21 there is a dog directly engaged with a victim that is</div> <div>22 seriously injured and the attack is continuing.</div> <div>23 For instance, they run up yelling at the dog</div> <div>24 and the dog isn't diverting. If they have a safe shot,</div>	<div>28</div> <div>1 injuring the officer. Three of them were in</div> <div>2 self-defense against armed suspects that were actively</div> <div>3 deploying force towards me.</div> <div>4 And two date back to the early days as a</div> <div>10:43:54AM 5 police officer when in the state of Florida it was legal</div> <div>6 and actually kind of trained to shoot people running</div> <div>7 from felonies.</div> <div>8 Q. About how many times do you think in your law</div> <div>9 enforcement career you discharged your firearm other</div> <div>10:44:13AM 10 than at the range?</div> <div>11 A. Five.</div> <div>12 Q. Have you trained police officers on</div> <div>13 de-escalation tactics?</div> <div>14 A. With animals, yes, that's an essential part of</div> <div>10:44:26AM 15 the dog encounter training is how to not only interpret</div> <div>16 a dog's body language but how to use the officer's own</div> <div>17 body language, positioning, expressions and so forth to</div> <div>18 de-escalate a contact between themselves and a dog.</div> <div>19 Q. About how many officers have you trained on</div> <div>10:44:50AM 20 the de-escalation tactics when dealing with an animal?</div> <div>21 A. Going back to the previous number, probably</div> <div>22 plus or minus 200.</div> <div>23 Q. And about how many hours?</div> <div>24 A. Again, that class is varying lengths. The</div>

<div>29</div> <div>1 LEDT class itself is eight hours. The officers that</div> <div>2 I've worked with directly have gotten probably at least</div> <div>3 two to three hours of de-escalation training based on</div> <div>4 their encounters with dogs.</div> <div>10:45:27AM 5 Q. Is that in addition to the eight hours of the</div> <div>6 LEDT training?</div> <div>7 A. That's an essential part of the LEDT training.</div> <div>8 That would be incorporated in that, along with a</div> <div>9 continual review at the end of each module of both dog</div> <div>10:45:49AM 10 body language and perception of threats and also actions</div> <div>11 the officers can take to de-escalate the various</div> <div>12 scenarios, ranging from frightened dog to offensive dog</div> <div>13 to defensive dog and so forth.</div> <div>10:46:12AM 14 Q. So about how many hours altogether is that</div> <div>15 training to officers?</div> <div>16 A. The full training module is eight hours. Out</div> <div>17 of that, we probably spend close to three hours of that</div> <div>18 one way or the other addressing the de-escalation.</div> <div>10:46:31AM 19 Q. I appreciate that. Are there any other</div> <div>20 trainings other than the law enforcement dog encounters</div> <div>21 training that you've given to police officers about</div> <div>22 interacting with animals?</div> <div>23 A. It all centers around the processes and what</div> <div>24 became the final product of the LEDT training. I have</div>	<div>31</div> <div>1 either correctly or incorrectly, as threat behavior.</div> <div>2 Q. Is that the same types of trainings as we had</div> <div>3 described and gone over earlier?</div> <div>4 A. Yes.</div> <div>10:48:58AM 5 Q. And would that be considered wrapped in that</div> <div>6 training the amount of hours, same amount of police</div> <div>7 officers trained?</div> <div>8 A. Right. It's all -- an essential part of that</div> <div>9 training, like I said, is the recognition of an</div> <div>10:49:14AM 10 evaluation quickly of a dog's behavior and then the</div> <div>11 knowledge and understanding of the strategies they can</div> <div>12 use to de-escalate to avoid or to terminate any kind of</div> <div>13 a threatening encounter.</div> <div>10:49:37AM 14 Q. Have you worked for an internal affairs</div> <div>15 division of a police department when you were a police</div> <div>16 officer?</div> <div>17 A. No. As a lieutenant, I was responsible for</div> <div>18 investigating complaints about the officers under my</div> <div>19 command. Unless they rose to the point of being</div> <div>10:49:57AM 20 potentially criminal and then it was turned over to</div> <div>21 internal.</div> <div>22 So I've investigated many complaints,</div> <div>23 including the use of force. I was not directly assigned</div> <div>24 to the Jacksonville sheriff's office internal affairs</div>
<div>30</div> <div>1 again at conferences, for instance, when they have asked</div> <div>2 me to speak, whether it be the National Sheriff's</div> <div>3 Association or animal control conferences where police</div> <div>4 are in attendance, also at legal CLE conferences with</div> <div>10:47:17AM 5 prosecutors and police officers.</div> <div>6 I've taught bits of those techniques to those</div> <div>7 officers present and to the people present. So that</div> <div>8 both the officers and the prosecutors and whoever else</div> <div>9 attends those legal CLE conferences are aware of the</div> <div>10:47:38AM 10 techniques and the trainings that are out there.</div> <div>11 Q. Does this training include training police</div> <div>12 officers on how to interact with aggressive animals?</div> <div>13 A. Yes, it includes not only how to properly</div> <div>14 perceive a dog's behavior as to whether indeed it is</div> <div>10:47:58AM 15 showing dangerous behavior and also how to de-escalate</div> <div>16 those situations and the use of less and nonlethal</div> <div>17 methods to protect themselves and the public.</div> <div>18 Q. And that training does include aggressive</div> <div>19 dogs, correct?</div> <div>10:48:17AM 20 A. Yes. It includes -- and the word aggressive</div> <div>21 is kind of, technically aggression is a set of behaviors</div> <div>22 that a dog uses to affect its environment. But what's</div> <div>23 commonly called aggressive, yes, we very much focus on</div> <div>24 dogs displaying behaviors that officers may perceive,</div>	<div>32</div> <div>1 division.</div> <div>2 Q. Other than use of force complaints, what other</div> <div>3 types of complaints with the police officers that you</div> <div>4 supervised did you investigate?</div> <div>10:50:34AM 5 A. Use of force, interactions with the public.</div> <div>6 The appropriateness and legality of arrests they made.</div> <div>7 Their conduct in public. Use of their vehicles, things</div> <div>8 like speeding or having accidents.</div> <div>9 Basically anything that anybody would complain</div> <div>10:51:00AM 10 about first would go through me and then based on our</div> <div>11 guidelines at the time some things had to be referred</div> <div>12 directly to internal.</div> <div>13 For instance, if an officer was accused of</div> <div>14 robbing a Minute Market, that would go directly to</div> <div>10:51:19AM 15 internal. You know, criminal behavior like that, you</div> <div>16 know. Less than that, much of that was handled at the</div> <div>17 mid management level, my level, where I would interview</div> <div>18 the officers, interview supervisors, interview witnesses</div> <div>19 and complainants and so forth and then make disciplinary</div> <div>10:51:42AM 20 recommendations up the line.</div> <div>21 Q. Were you ever involved in, I'm not sure how it</div> <div>22 was in Florida so let me know if I need to rephrase</div> <div>23 anything, were you ever involved in any firearm</div> <div>24 discharge investigations?</div>

<div>33</div> <div> <p>1 A. Yes, I was. Typically when officers under my</p> <p>2 command or who were acting, even though they may have</p> <p>3 been someone else's officer, acting within the area that</p> <p>4 I was responsible for, I was most often the first or one</p> <p>10:52:21AM 5 of the first supervisory personnel on site.</p> <p>6 And it was my job to make sure that things</p> <p>7 like the scene was properly being secured, that</p> <p>8 witnesses were identified and sequestered for interview.</p> <p>9 To check for injuries, to anyone other than</p> <p>10:52:46AM 10 those directly involved, to review the officer's actions</p> <p>11 initially to be able to guide those that arrived, the</p> <p>12 detectives and so forth, to those parts of the</p> <p>13 investigation they needed to be aware of. Of course,</p> <p>14 they would work on top of that.</p> <p>10:53:08AM 15 But to make sure that if there were any</p> <p>16 wounded people that they had been appropriately</p> <p>17 addressed or transported to the hospitals. And if they</p> <p>18 were transported, that there were officers present and</p> <p>19 overseeing them to make sure of their condition and they</p> <p>10:53:29AM 20 were getting appropriate aid.</p> <p>21 Any time a shooting happened involving the</p> <p>22 police, whether they were the shooters or were the ones</p> <p>23 being shot at or, heaven forbid, shot, I was one of the</p> <p>24 first people who was going to be there.</p> </div>	<div>35</div> <div> <p>1 I started training other people's dogs for competition</p> <p>2 and did that for several years.</p> <p>3 I continued doing obedience training for quite</p> <p>4 a number of years and still do a little bit of that now.</p> <p>11:23:18AM 5 So that's about 23, 24 years ago that I started that.</p> <p>6 As I said, I was a member of the Professional</p> <p>7 Retriever Trainer's Association because I was competing</p> <p>8 at national level with my own, with clients' retrievers</p> <p>9 for competitions.</p> <p>10:52:46AM 10 And also during that period of time, I took</p> <p>11 quite a number of different seminars on dog training,</p> <p>12 dog behavior, training methods, various subjects within</p> <p>13 the field.</p> <p>14 I became a certified professional dog trainer</p> <p>11:24:01AM 15 and continued to improve my education, experience. I've</p> <p>16 worked as the chief, although the titles were different,</p> <p>17 the chief of two different animal control agencies.</p> <p>18 And during that period of time, I worked with</p> <p>19 some of the dogs that came into our various, into the</p> <p>11:24:29AM 20 agencies that had severe problems. I started with</p> <p>21 working with aggression problems.</p> <p>22 But I became interested in and started</p> <p>23 focusing on and investigating both higher levels of</p> <p>24 behavior training and also the fatal dog attacks to</p> </div>
<div>34</div> <div> <p>1 Q. Were you ever one to be the head of an</p> <p>2 investigation and do interviews of that sort?</p> <p>3 A. Investigations on less than criminal</p> <p>4 complainants. And then shooting complaints, yes, I ran</p> <p>10:54:10AM 5 those in my area all the time. As far as shootings, I</p> <p>6 was only the head of such an investigation until the</p> <p>7 period of time that internal investigations and my</p> <p>8 commanders got on the scene. And then they took command</p> <p>9 of the investigation.</p> <p>10:54:34AM 10 MS. DAVIDSON: I don't know what time</p> <p>11 exactly you need to go? Let's go off the record.</p> <p>12 (Morning recess.)</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. Do you have any background as a dog trainer?</p> <p>11:22:24AM 15 A. Yes.</p> <p>16 Q. Can you describe that background for me,</p> <p>17 please?</p> <p>18 A. Before I retired from the sheriff's office, I</p> <p>19 started training dogs obedience and basic manners and so</p> <p>11:22:43AM 20 forth when I got a dog and started working with my own</p> <p>21 dogs.</p> <p>22 That proceeded to getting involved in</p> <p>23 obedience competition and dog shows and then eventually</p> <p>24 field competitions. And then at the request of others,</p> </div>	<div>36</div> <div> <p>1 humans, first in the United States and then the United</p> <p>2 States and other countries.</p> <p>3 Q. Your dog training when it comes to dog</p> <p>4 obedience and while you were doing, while you were a</p> <p>11:25:17AM 5 police officer, were any of those considered K-9s or</p> <p>6 dogs that were considered officers in the police</p> <p>7 department?</p> <p>8 A. No, they were not.</p> <p>9 Q. Do you have any background conducting</p> <p>10 evaluations of a dog's behavior?</p> <p>11:25:27AM 11 A. Extensive, yes.</p> <p>12 Q. Can you describe that background for me,</p> <p>13 please?</p> <p>14 A. I've evaluated, hands-on behavior evaluated</p> <p>11:25:42AM 15 approximately 60 dogs who have been involved in killing</p> <p>16 human beings after the attack looking for causation,</p> <p>17 contributing behaviors.</p> <p>18 I've evaluated hundreds of dogs for various</p> <p>19 rescue groups as far as helping diagnose problems and</p> <p>11:26:06AM 20 recommending retraining or recommending frankly whether</p> <p>21 the dog was likely to be rehabilitatable or not.</p> <p>22 I've worked several major dog fighting cases,</p> <p>23 one where we seized 107 dogs from a fighting ring. One</p> <p>24 that was in the Caribbean that had 30 or 40. One out of</p> </div>

<div>37</div> <div>1 Canada that was like 34 dogs. Several in a couple of</div> <div>2 jurisdictions in Florida. I worked with evaluating,</div> <div>3 that was probably 100 dogs that a rescue had out in</div> <div>4 Arizona a number of years back.</div> <div>11:26:57AM 5 And that doesn't count the many dogs that I</div> <div>6 either did an evaluation on or was asked to take a look</div> <div>7 at in the two animal control agencies that I ran. For</div> <div>8 instance, one of those agencies we took in --</div> <div>9 For the three years I was there, we took in</div> <div>11:27:21AM 10 about 13,000 dogs a year. And I had contact in one way</div> <div>11 or the other with the vast majority of those. I can't</div> <div>12 say that I saw absolutely every one.</div> <div>13 So that right there is probably close to</div> <div>14 30,000 dogs that I've had experience taking a look at</div> <div>11:27:43AM 15 either for adoptability or for safe handling for my</div> <div>16 staff or any of those sorts of situations. So yeah,</div> <div>17 I've evaluated more than just a few dogs over the years.</div> <div>18 Q. And in evaluating the dogs, does your</div> <div>19 background involve dealing with aggressive dogs?</div> <div>11:28:04AM 20 A. Oh, yeah. I think you can probably classify</div> <div>21 all those 60 dogs that have killed people at least as</div> <div>22 allegedly aggressive. Dogs don't just kill people by</div> <div>23 just sitting at their feet and taking treats.</div> <div>24 And then there's several hundred fighting dogs</div>	<div>39</div> <div>1 Control Association, the Florida Animal Control</div> <div>2 Association, the Southeastern Animal Control</div> <div>3 Association, the Alabama Animal Control Association, the</div> <div>4 Colorado Animal Control Association. But a number of</div> <div>11:30:18AM 5 states, I won't go through them all.</div> <div>6 But teaching officers how to assess those</div> <div>7 dogs, how to look at their particular local laws and</div> <div>8 ordinances as to what behaviors or standards their</div> <div>9 investigation is held to. All kinds of related subjects</div> <div>10 around that.</div> <div>11:30:45AM 11 Q. What exactly is a dangerous dog case?</div> <div>12 A. It depends on where you live. Dangerous dog</div> <div>13 is a designation that is established by either state law</div> <div>14 or local ordinance. So since those are legally defined,</div> <div>11:31:09AM 15 it varies from place to place.</div> <div>16 I don't use dangerous dog as a blanket for a</div> <div>17 dog that is doing something we don't like. Again, it's</div> <div>18 a legal standard that has to be met. Some places it's</div> <div>19 dangerous, some places it's vicious, some places it's</div> <div>11:31:31AM 20 potentially dangerous.</div> <div>21 But that term, again since it's legally</div> <div>22 defined in most places, it depends on the jurisdiction.</div> <div>23 Q. So when you're training on dangerous dog</div> <div>24 cases, what does that type of training entail?</div>
<div>38</div> <div>1 from fighting rings that would at various levels be</div> <div>2 identified as aggressive. And then in the shelter and</div> <div>3 rescue environment.</div> <div>4 Most of the time when I'm asked by an</div> <div>11:28:40AM 5 organization or a person to look at a dog, including</div> <div>6 private clients too, it's because they are having</div> <div>7 aggression problems.</div> <div>8 Q. Have you rehabilitated any aggressive dog?</div> <div>9 A. Yes. We have successfully rehabilitated quite</div> <div>11:28:58AM 10 a number of, both myself working with clients' dogs,</div> <div>11 setting up the protocols for others to work with dogs</div> <div>12 from these cases.</div> <div>13 Making recommendations and training plans.</div> <div>14 Working with fighting dogs. The dogs that kill people</div> <div>11:29:21AM 15 don't get rehabilitated because most states require they</div> <div>16 be destroyed. But, yeah, I've rehabilitated and worked</div> <div>17 with a lot of aggressive dogs.</div> <div>18 Q. Regarding training that deals with dogs</div> <div>19 mainly, I know we talked about the law enforcement one a</div> <div>11:29:44AM 20 little bit in detail earlier, but do you deal with any</div> <div>21 training dealing with dangerous dog cases?</div> <div>22 A. I have taught on the subject of dangerous dogs</div> <div>23 on a number of occasions for animal control officers in</div> <div>24 various places, including for the National Animal</div>	<div>40</div> <div>1 A. It entails going over the local jurisdiction</div> <div>2 or the applicable jurisdiction's laws, explaining how</div> <div>3 those laws would apply to normal and abnormal dog</div> <div>4 behavior and then instructing the officers on how to</div> <div>11:32:16AM 5 interpret and appreciate the dog's body postures,</div> <div>6 actions, the behaviors, all of those factors so that</div> <div>7 they can use their observations and investigations to</div> <div>8 determine whether the animal's actions met the statutory</div> <div>9 requirements of their jurisdiction.</div> <div>11:32:43AM 10 Q. And have you trained police officers in the</div> <div>11 area of dangerous dog?</div> <div>12 A. Yes. An assortment of them over the years</div> <div>13 have been part of that. And understand also that in</div> <div>14 both of the animal control agencies that I ran, I was</div> <div>11:33:00AM 15 in --</div> <div>16 The first one I was the issuer of the legal</div> <div>17 finding of dangerous. So I would look at my officer's</div> <div>18 information and then I would determine if the dog was</div> <div>19 dangerous.</div> <div>11:33:14AM 20 And in the second one in Jacksonville, I</div> <div>21 actually, although the officers did the investigations,</div> <div>22 I kind of handled it a step back because I was the</div> <div>23 statutory hearing officer to evaluate the arguments both</div> <div>24 of the dog's owner and any victim involved and the</div>

<p style="text-align: center;">41</p> <p>1 officers involved to determine whether that dog met the</p> <p>2 criteria of being legally dangerous.</p> <p>3 Q. Have you done any training in relation to</p> <p>4 criminal cruelty dog cases?</p> <p>11:33:51AM 5 A. Yes, an assortment of that. Again, many</p> <p>6 seminars, everything from legal CLE courses to animal</p> <p>7 control agencies to speaking to public gatherings about</p> <p>8 animal cruelty and what is animal cruelty and the</p> <p>9 important maintenance of it.</p> <p>11:34:15AM 10 And also with not only police on how to</p> <p>11 investigate them but on the relationship between animal</p> <p>12 cruelty and human violence.</p> <p>13 Q. So what are criminal cruelty animal cases?</p> <p>14 A. Again, it depends on where you are. Animal</p> <p>11:34:32AM 15 cruelty is generally defined by its jurisdiction.</p> <p>16 Typically it centers around the question of overwork,</p> <p>17 physical abuse, deprivation of sustenance, shelter and</p> <p>18 the other requirements for a dog's proper welfare and</p> <p>19 keeping.</p> <p>11:34:57AM 20 The denial, for instance, of veterinary</p> <p>21 treatment for a dog. Again, failing to meet its needs,</p> <p>22 food, water and shelter and so forth. So the</p> <p>23 non-accidental -- it's called non-accidental injury</p> <p>24 within veterinary forensic circles, NAI, so the</p>	<p style="text-align: center;">43</p> <p>1 various parts of the class or various classes.</p> <p>2 So there is extensive training available and</p> <p>3 it's being presented on a regular basis to police</p> <p>4 officers and police officers in other states.</p> <p>11:37:12AM 5 Q. What is the proper use of force training in</p> <p>6 canines?</p> <p>7 A. To use the minimum amount of force necessary</p> <p>8 to protect one's self and others from serious or deadly</p> <p>9 harm.</p> <p>11:37:30AM 10 Q. Does that training entail what we had</p> <p>11 discussed earlier in the law enforcement dog encounters</p> <p>12 training?</p> <p>13 A. Yes. It's also included in the training</p> <p>14 provided by Chicago Safe Humane back in 2011. It's also</p> <p>11:37:49AM 15 included in the training that I actively participated in</p> <p>16 in California for the California Committee on Police</p> <p>17 Officers Standards and Training in 2015.</p> <p>18 And those other courses around the country</p> <p>19 that I've been exposed to all seem to center very much</p> <p>20 on that subject.</p> <p>11:38:08AM 21 Q. So what does the training of use of force in</p> <p>22 canines entail with all that together?</p> <p>23 A. Training the officers to assess the situation,</p> <p>24 to assess whether the dog is a credible threat to</p>
<p style="text-align: center;">42</p> <p>1 non-accidental injury or damage to a dog or to another</p> <p>2 animal.</p> <p>3 Q. What does the training in criminal cruelty</p> <p>4 cases entail?</p> <p>11:35:31AM 5 A. It entails recognizing when an animal may be</p> <p>6 being treated cruelly. I teach the proper collection of</p> <p>7 evidence, things like photographic documentation.</p> <p>8 Getting documentation and examination by a veterinarian,</p> <p>9 documenting the crime scene.</p> <p>11:35:52AM 10 Interviews with owners, witnesses, actual</p> <p>11 physical examination of the dog for things like the</p> <p>12 visible presence or absence of injuries. The conditions</p> <p>13 under which the animal was kept, what is called the body</p> <p>14 condition index, which means is the dog underfed,</p> <p>11:36:18AM 15 overfed, properly fed.</p> <p>16 There's a lot of different things that come</p> <p>17 together. And with my work, it intersects very closely</p> <p>18 over time with veterinary examinations by veterinarians</p> <p>19 licensed in whatever jurisdiction I'm operating in.</p> <p>11:36:37AM 20 Q. Are police officers trained in this area?</p> <p>21 A. The ones that I deal with are. And the ones</p> <p>22 that I'm aware of, trainings including our master's</p> <p>23 program at the University of Florida which has had a lot</p> <p>24 of both police and animal control officers attend</p>	<p style="text-align: center;">44</p> <p>1 themselves or someone else. And then the application of</p> <p>2 the less lethal and nonlethal tools and techniques they</p> <p>3 already know and possess in order to use the minimum</p> <p>4 force necessary to defend themselves or another person.</p> <p>11:38:49AM 5 Q. Have you taught police officers on this?</p> <p>6 A. Oh, yes.</p> <p>7 Q. When have you taught them?</p> <p>8 A. Any time I've given the LEDT class or done</p> <p>9 presentations in seminars for police departments. And</p> <p>10 that includes indirectly a number of thousands of</p> <p>11 officers.</p> <p>12 Because, for instance, when I trained in Miami</p> <p>13 Dade, I trained their academy trainers who then turned</p> <p>14 around and took the presentation, the manual and the</p> <p>11:39:29AM 15 training I had given and trained their 6,000 street</p> <p>16 officers or police officers there.</p> <p>17 I've trained the officers out in, with the Las</p> <p>18 Vegas Metro Police Department, with sheriff departments</p> <p>19 and police departments around the country. And in a lot</p> <p>11:39:49AM 20 of those cases, they then have taken that material that</p> <p>21 they have been given and passed that along.</p> <p>22 The course is also available online for free.</p> <p>23 I don't have a record of how many times that course has</p> <p>24 been downloaded and deployed. Perhaps the National</p>

<p style="text-align: center;">45</p> <p>1 Sheriff's Association could give you an idea on that.</p> <p>2 But police departments are free to take that</p> <p>3 resource. It was funded by the NSA and the Department</p> <p>4 of Justice and dispersed to their officers as they see</p> <p>11:40:26AM 5 fit.</p> <p>6 Q. Are police officers taught this in the</p> <p>7 academy?</p> <p>8 A. It depends on where you are. In some places,</p> <p>9 they are. In some places, they are not. That's a</p> <p>11:40:38AM 10 department by department decision. I personally think</p> <p>11 all academies should be required to teach some form of</p> <p>12 animal encounter training.</p> <p>13 Q. Some police departments, are you aware if it's</p> <p>14 an extra training they are given outside of academy,</p> <p>11:41:58AM 15 like when they have to complete extra trainings</p> <p>16 throughout the year sometimes?</p> <p>17 A. Yes. For instance, Miami Dade's expressed</p> <p>18 intentions to me was they were going to train all of</p> <p>19 their active police officers over a period of time</p> <p>11:41:14AM 20 through in-service training and also incorporate that in</p> <p>21 their academy.</p> <p>22 In Nye County, since it's a smaller</p> <p>23 department, it's not 6,000 people, the Nye County</p> <p>24 sheriff's office, I trained all their officers and their</p>	<p style="text-align: center;">47</p> <p>1 or cease problematic behaviors.</p> <p>2 To analyze, for instance, the relationship</p> <p>3 between the dog and the human and to advise them on</p> <p>4 better ways of safely interacting with their dogs. It's</p> <p>11:43:40AM 5 quite a large range of things that we do.</p> <p>6 Q. Typically do you do regular consulting as a</p> <p>7 behavior consultant outside of your expert case work?</p> <p>8 A. Oh, yes, absolutely.</p> <p>9 Q. Are you still considered a consultant for the</p> <p>11:44:02AM 10 Animal Care and Protective Services Department for the</p> <p>11 city of Jacksonville?</p> <p>12 A. I honestly don't know. We are in the</p> <p>13 process -- we just had an election. The mayor is</p> <p>14 changing. That status is at the pleasure of the mayor.</p> <p>11:44:20AM 15 She will be inaugurated in July. Right now it's a</p> <p>16 matter of transition.</p> <p>17 The initial contracted period was over I think</p> <p>18 like a year ago, but they still have the ability to call</p> <p>19 me. I'm not sure technically what my status is. For</p> <p>11:44:50AM 20 about a year, I was actually, although I was labeled the</p> <p>21 division management consultant, I was the acting chief.</p> <p>22 The reason it wasn't called that is because as</p> <p>23 a retired police officer from the Jacksonville Sheriff's</p> <p>24 Department, there are local statutory limits to a city</p>
<p style="text-align: center;">46</p> <p>1 academy staff, who then trained and incorporated it into</p> <p>2 in their academy training. They had me come out one</p> <p>3 time to actually train an academy class. But since</p> <p>4 then, their training personnel have taken over that job.</p> <p>11:41:50AM 5 So it's in their academy.</p> <p>6 In states like California, Tennessee, Colorado</p> <p>7 and some of the others where this training is mandated</p> <p>8 by the legislature, to the best of my knowledge most of</p> <p>9 the departments incorporate it in their academy and in</p> <p>11:42:09AM 10 their in-service training.</p> <p>11 Q. What exactly is a certified behavior</p> <p>12 consultant? What exactly do you do?</p> <p>13 A. What I do is to use scientific knowledge and</p> <p>14 so forth to interview, for instance, owners or other</p> <p>11:42:36AM 15 people involved to interact with the dog or dogs</p> <p>16 involved. To do my best to determine not only what</p> <p>17 behaviors are problematic for the owners but what</p> <p>18 behaviors the dog may be showing that perhaps the owner</p> <p>19 doesn't recognize as being initially a problem but are</p> <p>11:43:00AM 20 going to be problems.</p> <p>21 Then to work with the owners and the dogs to</p> <p>22 form behavior modification programs. Pointing the dog</p> <p>23 basically in the right direction, reinforcing proper</p> <p>24 behaviors, aiding the owners to set the dog up to reduce</p>	<p style="text-align: center;">48</p> <p>1 being able to take a retired technically city employee</p> <p>2 and rehiring them for another position. So we had to</p> <p>3 make it as a consultant.</p> <p>4 Q. Understandable. When you were consulting for</p> <p>11:45:32AM 5 the Animal Care and Protective Services Department for</p> <p>6 the city of Jacksonville, what did your work there</p> <p>7 entail?</p> <p>8 A. For the first year, it included overseeing all</p> <p>9 animal control operations, overseeing all shelter</p> <p>11:45:50AM 10 operations. Working with and technically overseeing,</p> <p>11 although I defer to their professional status, my</p> <p>12 veterinarians and the processes of our rather large</p> <p>13 fraternity hospital and practice there within the city's</p> <p>14 animal control division.</p> <p>11:46:07AM 15 I oversaw the field officers. I did</p> <p>16 additional training for the field officers when I</p> <p>17 realized they had deficits in their previous experience</p> <p>18 or training. For instance, guiding them through dog</p> <p>19 fighting and a major cock fighting investigation and</p> <p>11:46:30AM 20 charges and convictions.</p> <p>21 Making sure that they were properly trained in</p> <p>22 search and seizure and when they could and could not</p> <p>23 just simply take someone's dog or the process for doing</p> <p>24 so. I trained them more additionally in dog bite</p>

1 investigations. I guided their dangerous dog
2 investigations.
3 And again, I sat as the hearing officer
4 whenever such a determination was appealed. I
11:47:03AM 5 interacted with the city council, the mayor's office,
6 the news, on animal issues. I worked with the local
7 Humane Society and other Humane Societies and rescues
8 and so forth around the country in trying to assist
9 getting our dogs and their dogs adopted when safe.
11:47:26AM 10 Basically the spectrum of animal control and
11 shelter operations. I worked with the veterinarians
12 when we had cruelty cases come in to make sure that we
13 were gathering the proper evidence and assessment and
14 properly documenting that and presenting it to the state
11:47:46AM 15 attorney's office.
16 And then after I was, after they replaced me
17 with a permanent chief, then I was still available and
18 conducted assistance on complicated investigations,
19 complicated cruelty cases. I did some more training for
11:48:08AM 20 their staff as needed. So a lot of stuff.
21 Q. What are animal crime investigations?
22 A. Any investigation that deals with an animal
23 being the victim of some sort of unlawful activity.
24 Q. Do you do any trainings in that area?

1 A. That's kind of what all the cruelty and dog
2 fighting and so forth investigations are. I mean, those
3 are all animal-related crimes. If someone has tortured
4 an animal or killed an animal or abused an animal or is
11:48:56AM 5 using dogs for fighting or using chickens for fighting
6 or, heaven for bid, they are fighting horses or
7 something, yeah, those were all animal crimes.
8 Q. What is your experience in animal fighting
9 cases?
11:49:10AM 10 A. Again, I have assisted in the investigation of
11 quite a few. Before that, I've been through repeated
12 trainings from groups as disparate as the ASPCA, the
13 Humane Society of the United States, attorneys,
14 prosecuting groups and national experienced personnel
11:49:39AM 15 and people, including courses presented by the then
16 assistant attorney general of Virginia and others,
17 judges and so forth.
18 And then I have been actually on scene with
19 the police on probably a dozen animal fighting cases.
11:50:04AM 20 The complaints we got in Jacksonville while I was the
21 division management consultant there, I would go in with
22 the police and basically guide their investigation
23 saying we need to do this, no, we can't do that, this is
24 evidence that we need to collect and so forth. I've

1 been very, very heavily involved in that.
2 Q. Do you train in that area?
3 A. Yes, I do train in that area. I have taught
4 and continue to teach classes to both animal control and
11:50:42AM 5 to police departments on what dog fighting is, what they
6 should be looking for and principles such as gathering
7 the totality of evidence to establish the dog fighting
8 is actually or was actually occurring.
9 Q. I know you said that you trained officers on
11:51:06AM 10 how to use excessive force on animals, specifically
11 dogs. How are the officers trained?
12 A. We discuss --
13 MR. ABBAS: Can you rephrase that
14 question? Can you repeat it?
11:51:21AM 15 MS. DAVIDSON: I said I know he testified
16 that he has trained officers on how to use excessive
17 force on animals or how not to use excessive force on
18 animals.
19 MR. ABBAS: Thank you.
11:51:37AM 20 BY MS. DAVIDSON:
21 Q. How do you train the officers to not use or --
22 A. We start with training them to understand the
23 likely purpose of the dog's behavior and to recognize
24 the difference between threat behavior and non-threat

1 behavior. And then we start with the same principles we
2 use with human use of force.
3 That is the use of mere presence and what you
4 can do simply presenting yourself, body positioning,
11:52:10AM 5 body language, where to look, how to stand and so forth
6 to de-escalate or prevent a negative encounter. We then
7 wrap in the use of voice presence, which is the next
8 step on the force continuum. "No. Sit. Go home."
9 Those sort of direct statements.
11:52:31AM 10 From there, I also teach the use and the
11 awareness of, for instance, physical barriers. Like if
12 the dog is behind the fence, close the gate. Then you
13 don't have a problem. If you need to or if you think
14 you're going to need to, look around for objects and
11:52:55AM 15 strategies to block yourself from contact from the dog.
16 Then step up to using less and non-lethal
17 tools, such as using a baton to maintain space between
18 yourself and the dog. Because the dog if it's going to
19 bite typically will bite the closest object to it.
11:53:19AM 20 So whether it's a standard baton or
21 collapsable baton, by extending it out in front of you,
22 you can use that object to keep the dog way from you and
23 perhaps to guide it into a more controlled situation.
24 We then proceed with using things -- the next

<div>53</div> <div> <p>1 step up would be pepper spray or Oleoresin Capsicum. OC</p> <p>2 spray is the common term within law enforcement. And we</p> <p>3 explain the high effectiveness of that when dealing with</p> <p>4 dog encounters as established by studies such as the</p> <p>11:54:02AM 5 Baltimore police department.</p> <p>6 They found it was nearly 100 percent effective</p> <p>7 in deterring aggressive encounters or aggressive dog</p> <p>8 encounters. How to deploy it. Show videos actually of</p> <p>9 its effectiveness and that it does work. And cautioning</p> <p>11:54:25AM 10 the officers on how to deploy it without contaminating</p> <p>11 themselves unnecessarily or at all if possible.</p> <p>12 And then proceed from that to the conducted</p> <p>13 electronic weapons or TASERS and the methods for</p> <p>14 deploying those and the extreme effectiveness of those</p> <p>11:54:47AM 15 not as a capture but as a defensive tool.</p> <p>16 Because typically, and I've never seen them do</p> <p>17 otherwise, when a dog is tased, its first response is to</p> <p>18 drop immediately like a sack of bricks. And as soon as</p> <p>19 the electronic impulse is discontinued, the dog</p> <p>11:55:07AM 20 typically heads for the horizon in whatever direction it</p> <p>21 can find to absent itself from the situation.</p> <p>22 And then if those don't work, I explain the</p> <p>23 safety concerns with and the proper deployment of</p> <p>24 firearms, including the fact that they should not be</p> </div>	<div>55</div> <div> <p>1 protection of resources of one sort or another, which</p> <p>2 could be a location, a person, its puppies, its food</p> <p>3 bowl. But the protection of resources.</p> <p>4 There is not a single aggressive behavior.</p> <p>11:57:44AM 5 Barking, for instance, is not by itself aggressive.</p> <p>6 Barking is communication. It's how a dog vocalizes. It</p> <p>7 may be saying I'm a threat or it might be saying, Hi,</p> <p>8 dad, can we go play, can you throw the ball for me.</p> <p>9 Growling is a vocalization that in itself is</p> <p>11:58:05AM 10 not a threat, it's communication. The dog may be saying</p> <p>11 I'm uncomfortable, I don't feel good, don't touch me</p> <p>12 there. Or it may be saying I perceive you as a threat</p> <p>13 or as a social rival when dealing with another dog.</p> <p>14 They are transmitting the message I want this</p> <p>11:58:33AM 15 situation to de-escalate, please check your guns at the</p> <p>16 door and let's discuss this. Showing teeth may be, in</p> <p>17 some cases may be part of the progression of threat</p> <p>18 behaviors by a dog or in the case of some dogs they may</p> <p>19 be just smiling.</p> <p>11:58:57AM 20 I've had several dogs that when they are doing</p> <p>21 something they enjoy, they just show their teeth and</p> <p>22 smile. We have to be able to pick that single behavior</p> <p>23 out of the circumstances around the dog's action.</p> <p>24 Running in a particular direction, running at</p> </div>
<div>54</div> <div> <p>1 shooting at a head because that is a rapidly moving,</p> <p>2 very heavily armored target, a dog's skull can be very</p> <p>3 thick, but to aim for center of mass and to be aware of</p> <p>4 backdrop. Because the dog is a smaller organism, so</p> <p>11:55:48AM 5 there's a higher possibility of a pass-through shot.</p> <p>6 And they then have to worry about a ricochet</p> <p>7 or the disposition of the round once it goes through the</p> <p>8 dog. I warn them that gunfire may or may not be</p> <p>9 effective in turning the dog, especially immediately</p> <p>11:56:11AM 10 because, like with people, there are plenty of dogs who</p> <p>11 have been shot and continue for varying periods of time</p> <p>12 with the ability to threaten or injure someone.</p> <p>13 So I teach them shot placement and what</p> <p>14 reasonable expectations of using the firearm are and the</p> <p>11:56:34AM 15 risk to civilians, to other animals and to other police</p> <p>16 officers and so forth.</p> <p>17 Q. I know we have discussed the word aggressive</p> <p>18 earlier and you made a comment about it. What did you</p> <p>19 mean when you were describing aggressive behavior of a</p> <p>11:56:59AM 20 dog?</p> <p>21 A. Aggression is technically a cluster of</p> <p>22 behaviors that an animal, in this case a dog, uses to</p> <p>23 affect its environment. It's often related to survival</p> <p>24 or defense against a perceived threat or involving the</p> </div>	<div>56</div> <div> <p>1 someone, it may be part of the aggressive cluster or it</p> <p>2 may be part of the associative and affiliative behavior</p> <p>3 of a dog wanting to come play. Hackles up usually</p> <p>4 displays an uncomfortable mental state for that</p> <p>11:59:04AM 5 particular dog but that may be offensive or defensive.</p> <p>6 Tails in various positions.</p> <p>7 None of those behaviors by themselves are</p> <p>8 necessarily dangerous or only show aggression. Even</p> <p>9 putting teeth on someone doesn't necessarily show</p> <p>12:00:00PM 10 aggression. For instance, you can have a dog that sees</p> <p>11 your toddler heading out the door and runs over and</p> <p>12 grabs them by the coat or grabs them by the arm with</p> <p>13 their teeth under control to pull them away from</p> <p>14 something they perceive as a threatening situation.</p> <p>12:00:22PM 15 Q. *Do you train police officers to be able to</p> <p>16 determine if an animal is showing aggressive tendencies?</p> <p>17 A. Yes. Your output volume is a little low. Can</p> <p>18 you turn up the mic or bring it a little bit closer to</p> <p>19 you?</p> <p>12:00:38PM 20 Q. It could also be my voice because my allergies</p> <p>21 are bothering me.</p> <p>22 A. I understood. I've turned you up, but I want</p> <p>23 you to understand so that the court reporter, for</p> <p>24 instance, doesn't go, "What?"</p> </div>

1 Q. I appreciate that.

2 A. Go ahead and run the question by me again.

3 MS. DAVIDSON: Pat, can you read that one
4 back?

12:01:32PM 5 (*Court reporter reads back noted
6 testimony as recorded.)

7 BY MS. DAVIDSON:

8 A. The answer to that is absolutely yes. And
9 that includes using videos to show the differences
10 between threatening behavior and nonthreatening behavior

11 that might be confused by someone. It includes in one
12 portion of the class and I've used it outside of the
13 class a video of a dog charging directly at a police

14 officer that's very brief, but by that time in the
15 class, the officers are very skillful in interpreting
16 whether that's a threat in half a second or less.

17 Q. You answered the next question. You have your
18 report. I'm going to share my screen again to ensure
19 that it is and mark it as an exhibit.

12:02:33PM 20 (Document marked for identification as
21 Exhibit No. 2.)

22 BY MS. DAVIDSON:

23 Q. Can you see the screen?

24 A. Yes, I can.

1 Q. Normally I would ask what your opinions are in
2 this case, but it appears that you have many of them
3 that were listed. I think that the most efficient way
4 to go through this is to go through your report in a
5 way. I'm going to take it down, but if you want it up
6 to refer to it, I'm happy to do so.

12:03:01PM

7 First, I did notice on your report that you
8 marked it's a preliminary expert report. I was
9 wondering why that is?

12:03:16PM 10 A. Due to the fact it's always possible that
11 between the date I issued the opinion and the date that,
12 the day or date that we go to trial or firm things down
13 or whatever, if substantial evidence is introduced that
14 I did not have the opportunity to examine, you know, for

12:03:46PM 15 instance, Oh, by the way, there was also three people
16 shooting at the officer from on top of a roof and we
17 forgot to mention it to you, any additional information
18 I reserve the right to consider both for or against the
19 officer's actions.

12:04:07PM 20 And if something like that, you know,
21 hypothetically if someone had claimed this was a dog and
22 suddenly we find out it was a 200 pound tiger instead of
23 a dog, that they just misspoke, then I would potentially
24 change my opinion. That's why I say preliminary. It's

1 not over until the whatever sings. So anything that's

2 introduced later that might affect those opinions in

3 fairness I'm going to consider.

4 Q. Have you done any other reports in this case

12:04:45PM 5 besides this one?

6 A. Not at this point, no. That's just the report
7 I've completed.

8 Q. And to be clear, is this report that we have
9 marked as Exhibit 2 the report that you've done in this
10 case?

12:04:59PM 11 A. This is the report that I've submitted in this
12 case to date, yes.

13 Q. Just for the record to be clear, do you recall
14 the name of the dog that was involved in this incident?

12:05:13PM 15 A. The name that I was given was Chyna. And that
16 was represented as the name of the dog involved in the
17 incident, the name of the dog that was featured in the
18 photographs provided by the Boston police department.
19 And as best I can determine, that is the name of the dog
20 involved.

12:05:35PM 21 Q. As per your first opinion, is it your opinion
22 that Officer Smith used excessive force when he shot
23 Chyna?

24 A. Yes.

1 Q. And is it your opinion that Officer Smith used
2 needless force when he shot Chyna?

3 A. Yes.

4 Q. And when you say needless, what do you mean by
5 that?

12:06:02PM 6 A. What I mean by that is that there were other
7 effective and safe options that would have produced at
8 least as good a response as the use of deadly force did.
9 And that as such, he did not need to use that force as
10 it was not his only option and was not even necessarily
11 the best option.

12 Q. What is your basis for this opinion that you
13 believe that Officer Smith used excessive and needless
14 force?

12:06:54PM 15 A. Yes.

16 Q. What is the basis for that opinion?

17 A. The basis? There were other options that were
18 available that he was in possession of, including OC
19 spray. There were other strategies he could have
20 followed, such as using verbal direction to the dog as
21 to perhaps -- it was right next to his vehicle, so maybe
22 jumping up on his car, getting in his vehicle.

23 Other strategies such as -- he hasn't
24 mentioned it, but if he had a clipboard in his hand or a

<p style="text-align: center;">61</p> <p>1 flashlight that he could have used to establish space</p> <p>2 between him and the dog. There were a number of other</p> <p>3 strategies that he did not even try to deploy.</p> <p>4 And I also have questions that he may have due</p> <p>12:07:57PM 5 to the lack of training and experience misinterpreted</p> <p>6 the actions of Chyna as being aggressive when they were</p> <p>7 simply a natural and normal response to the situation</p> <p>8 that was present then.</p> <p>9 Q. In your review of documents in this case, did</p> <p>12:08:21PM 10 you review the Boston police department Defensive</p> <p>11 Tactics Manual?</p> <p>12 A. I believe that was provided. I don't remember</p> <p>13 the document specifically as being presented as a</p> <p>14 separate manual.</p> <p>12:08:59PM 15 Q. Did you review the Boston police department</p> <p>16 Defensive Tactics Manual?</p> <p>17 A. I reviewed whatever portion of that was</p> <p>18 included in discovery. There was not a document that</p> <p>19 was titled Boston police department Defensive Tactics</p> <p>12:08:59PM 20 Manual. There was, there were various groups, and I'm</p> <p>21 looking through right now to double check.</p> <p>22 There were Officer Smith's answers. There was</p> <p>23 an extensive set of scans that included some policies.</p> <p>24 I'll tell you just a second here which policies were</p>	<p style="text-align: center;">63</p> <p>1 tactics that could have been used and should have been</p> <p>2 used and that as such not only do I believe that it was</p> <p>3 needless for him because he was not credibly in that</p> <p>4 threat of serious injury or death, but he also had not,</p> <p>12:11:14PM 5 as the segment of the Boston police department policy</p> <p>6 that was provided to me stated, had not exhausted all</p> <p>7 other options before using deadly force.</p> <p>8 He did not -- again, based on the reports, he</p> <p>9 did not present the fact to the internal investigator</p> <p>12:11:34PM 10 that he was in possession of another effective and safe</p> <p>11 means of intervening in this case.</p> <p>12 Q. How long should it take a police officer to</p> <p>13 assess whether a dog has any aggressive tendencies?</p> <p>14 A. Based on my experience with the videos that I</p> <p>12:11:57PM 15 run, the typical response of officers is around or</p> <p>16 slightly less than half a second.</p> <p>17 Q. To be clear, can a police officer sense</p> <p>18 whether a dog is aggressive or showing aggressive</p> <p>19 tendencies in a matter of seconds?</p> <p>12:12:25PM 20 A. Absolutely. There are very, and we teach it,</p> <p>21 there are very easy what I call checkpoints regarding</p> <p>22 the position and what the dog is doing with eyes, ears,</p> <p>23 mouth, tail, body movement and so forth. So that can</p> <p>24 all be done, just like with human threats, in a very,</p>
<p style="text-align: center;">62</p> <p>1 included. But I did not receive in discovery a file</p> <p>2 identified as the Boston police department Defensive</p> <p>3 Tactics Manual.</p> <p>4 Q. Okay.</p> <p>12:09:40PM 5 A. So apparently the department did not provide</p> <p>6 that manual.</p> <p>7 Q. That would have been whatever your attorney</p> <p>8 gave you. That's not on me. What facts are you --</p> <p>9 MR. ABBAS: To clarify, I don't represent</p> <p>12:09:59PM 10 the witness.</p> <p>11 MS. DAVIDSON: Right. Let's go off the</p> <p>12 record for a second.</p> <p>13 (Off the record discussion.)</p> <p>14 BY MS. DAVIDSON:</p> <p>12:10:03PM 15 Q. What facts are you relying on to form your</p> <p>16 opinion that Officer Smith used excessive, needless</p> <p>17 force when he shot Chyna?</p> <p>18 A. I'm relying on the fact that no one was</p> <p>19 injured. Officer Smith did not seem to have been in</p> <p>12:10:32PM 20 imminent danger of serious bodily injury or death. That</p> <p>21 he had other strategies to use, such as the OC spray</p> <p>22 that he did not disclose to the initial Boston police</p> <p>23 department internal investigator.</p> <p>24 That there were other less catastrophic</p>	<p style="text-align: center;">64</p> <p>1 very brief moment.</p> <p>2 Q. Would you agree with me in every circumstance</p> <p>3 it may not always be possible for a police officer to</p> <p>4 assess whether a dog is aggressive in a matter of</p> <p>12:13:03PM 5 seconds?</p> <p>6 A. I would have to say that in the vast majority,</p> <p>7 I can't say all because there's no such thing as all,</p> <p>8 but I would say that in the large, vast majority of</p> <p>9 situations, it's possible for a police officer or any</p> <p>12:13:24PM 10 other reasonable person to very, very rapidly make an</p> <p>11 initial assessment of what a dog's behavior is showing.</p> <p>12 Q. And you would expect that initial assessment</p> <p>13 to be done in a matter of seconds?</p> <p>14 A. A matter of seconds or less. Again, it's</p> <p>12:13:53PM 15 very, very quick.</p> <p>16 Q. If someone was not trained to determine that,</p> <p>17 do you still think a normal, reasonable person should be</p> <p>18 able to determine if a dog is expressing aggressive</p> <p>19 tendencies in a matter of seconds?</p> <p>12:14:10PM 20 A. I think that a reasonable person can and very,</p> <p>21 very often does make a quick determination on the</p> <p>22 behavior of a dog. I think that a professional such as</p> <p>23 a police officer who has been trained in interpreting</p> <p>24 threats from humans should be able to analogously</p>

<p style="text-align: center;">65</p> <p>1 transfer that behavior to an animal.</p> <p>2 And since the police officer practices threat</p> <p>3 assessment over and over and over in their training,</p> <p>4 they should probably be able to assess that potential of</p> <p>5 threat more quickly than a simple member of the public.</p> <p>6 Q. But it could potentially take a police officer</p> <p>7 a minute or a little bit longer than seconds to realize</p> <p>8 he may be dealing with an animal that is aggressive,</p> <p>9 right?</p> <p>10 MR. ABBAS: Objection to form.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 A. A police officer should not be making</p> <p>13 assessments that are that incorrect. It is simple and</p> <p>14 easy, even with simply having observed pet dogs walking</p> <p>15 around the street or in the pet food store, whatever,</p> <p>16 the basic principles of appreciating dog behavior should</p> <p>17 be recognized by just a reasonable person.</p> <p>18 After all, over 60 percent of the households</p> <p>19 in the United States are listed as having dogs present</p> <p>20 in the household. The police officers go to houses</p> <p>21 where there are dogs and/or cats or whatever all of the</p> <p>22 time.</p> <p>23 Walking down the street as a breathing human</p> <p>24 being, we encounter pets all the time. So that</p>	<p style="text-align: center;">67</p> <p>1 predicated on a reasonable assessment and knowledgeable</p> <p>2 understanding of the situation. The standard that's</p> <p>3 currently been applied in federal courts in my</p> <p>4 experience has been, What should a well-trained,</p> <p>5 reasonable police officer have done? It's a higher</p> <p>6 standard that civilians.</p> <p>7 Q. I want to use the hypothetical a little bit.</p> <p>8 Let's say it's a dog that's showing aggressive</p> <p>9 tendencies charging at a police officer from 5 feet</p> <p>10 away, does that police officer have a right to use</p> <p>11 deadly force?</p> <p>12 A. A police officer always has a right to defend</p> <p>13 themselves. The amount of force used that is considered</p> <p>14 reasonable, proper or needed varies from situation to</p> <p>15 situation. And as I've said, aggression is not a single</p> <p>16 behavior. So the act of simply approaching a person</p> <p>17 rapidly is not by itself a sign of aggression.</p> <p>18 Q. So if there were aggressive tendencies as we</p> <p>19 have discussed today on top of the charging, would a</p> <p>20 police officer -- if the dog was charging at the police</p> <p>21 officer from 5 feet away, would they have a right to use</p> <p>22 force?</p> <p>23 MR. ABBAS: Objection. Form. That's open</p> <p>24 ended. I'm having trouble following it.</p>
<p style="text-align: center;">66</p> <p>1 assessment should be very quick no matter what training</p> <p>2 was not provided appropriately by the police agency.</p> <p>3 Q. Would you agree with me that there are some</p> <p>4 circumstances that a police officer might not ever know</p> <p>5 that they are dealing with an aggressive animal?</p> <p>6 A. I can't imagine such a circumstance. I mean,</p> <p>7 unless the officer was asleep or with their eyes closed</p> <p>8 and couldn't hear anything, I can't imagine a situation</p> <p>9 where a living, breathing, adult human being in our</p> <p>10 society would not have some idea of the difference</p> <p>11 between or to misappreciate the difference between an</p> <p>12 aggressive dog and a nonaggressive dog.</p> <p>13 Q. In your experience, are aggressive animals,</p> <p>14 specifically dogs, capable of harming police officers?</p> <p>15 A. Yes.</p> <p>16 Q. Based on your experience, if a dog is charging</p> <p>17 at a police officer from 5 feet away, does that police</p> <p>18 officer have a right to use deadly force?</p> <p>19 A. In such a hypothetical where a dog is only 5</p> <p>20 feet away when initially seen and the dog is presenting</p> <p>21 behaviors, an officer has the responsibility to</p> <p>22 appreciate whether the behavior is aggressive or not.</p> <p>23 An officer always has the right to defend themselves.</p> <p>24 It's a matter of whether that defense is</p>	<p style="text-align: center;">68</p> <p>1 BY MS. DAVIDSON:</p> <p>2 Q. If the dog displayed aggressive tendencies,</p> <p>3 more than one aggressive tendency I should say, and was</p> <p>4 charging at the police officer from 5 feet away, would</p> <p>5 that police officer have the right to use excessive</p> <p>6 force?</p> <p>7 MR. ABBAS: Are you assuming that the dog</p> <p>8 is not a lap dog, like a poodle?</p> <p>9 MS. DAVIDSON: If the dog has aggressive</p> <p>10 tendencies.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 A. I'm going to have to break that into pieces to</p> <p>13 adequately answer. No. 1, aggressive tendencies is not</p> <p>14 something that has a definition. There are no nets in</p> <p>15 which to catch aggressive tendencies. There are</p> <p>16 behaviors that are included in the aggressive cluster of</p> <p>17 behaviors.</p> <p>18 Secondly, the question, a very applicable</p> <p>19 question would be you're saying at 5 feet. Are you</p> <p>20 saying that the officer did not see and had no awareness</p> <p>21 of the dog before it was 5 feet away?</p> <p>22 Third, you asked if the officer could use</p> <p>23 excessive force. Officers can never use excessive</p> <p>24 force. They can use proportional and appropriate force.</p>

<p style="text-align: center;">69</p> <p>1 So do you want to try to say the question a little bit</p> <p>2 differently?</p> <p>3 Q. If a dog was growling and showing its teeth</p> <p>4 and charging an officer from 5 feet away and that's the</p> <p>12:21:51PM 5 first time the officer had seen the animal, would that</p> <p>6 officer have the right to use deadly force?</p> <p>7 A. The officer would be better served by using</p> <p>8 some other sort of intervention due to the inherent</p> <p>9 risks that all of us police officers are taught when</p> <p>12:22:15PM 10 engaging in deadly force.</p> <p>11 In that situation, the chance of the officer</p> <p>12 being killed by a dog, being a healthy adult person with</p> <p>13 other people around, is nearly zero. No one, no police</p> <p>14 officer has ever been killed due to the injuries</p> <p>12:22:43PM 15 received by a dog biting them in that situation.</p> <p>16 Nor has any police officer died from a dog</p> <p>17 attack with any complications since 1932 except for one</p> <p>18 officer who did not die from the dog bite but died from</p> <p>19 an allergic anaphylactic reaction to the vaccine.</p> <p>12:23:10PM 20 So ruling it as a threat of deadly force is</p> <p>21 completely and totally unreasonable and unsupported by</p> <p>22 data. As far as injury, the department has to establish</p> <p>23 and has in the case of Boston a standard for using</p> <p>24 deadly force and states clearly in their policies that</p>	<p style="text-align: center;">71</p> <p>1 behavior from a dog can be conducted in less than a</p> <p>2 second. So that seems to be a reasonable period of</p> <p>3 time.</p> <p>4 Q. You've been trained on how to use a gun as a</p> <p>12:25:44PM 5 police officer, correct?</p> <p>6 A. Extensively.</p> <p>7 Q. About how long does it take to pull the</p> <p>8 trigger of a gun generally?</p> <p>9 A. Pulling the trigger, if the gun is already</p> <p>12:25:56PM 10 unholstered and is pointed in the general direction,</p> <p>11 takes fractions of a second.</p> <p>12 Q. *Would you agree with me that in the amount of</p> <p>13 time an officer spends assessing whether a dog is</p> <p>14 aggressive or not, that that dog could have already bit</p> <p>12:26:27PM 15 the officer?</p> <p>16 MR. ABBAS: Objection as to form.</p> <p>17 It's calling for speculation and it's a hypothetical</p> <p>18 already without describing -- I understand you're going</p> <p>19 for examples, but without any context, it's calling for</p> <p>12:26:47PM 20 more speculation.</p> <p>21 (*Court reporter reads back noted</p> <p>22 testimony as recorded.)</p> <p>23 BY MS. DAVIDSON:</p> <p>24 A. From a distance that was in your hypothetical</p>
<p style="text-align: center;">70</p> <p>1 that may only be used when other forms of protection</p> <p>2 have been exhausted.</p> <p>3 So I would say that under the situation, even</p> <p>4 the hypothetical, had it happened in the city of Boston</p> <p>12:23:53PM 5 by someone controlled by the Boston police department's</p> <p>6 policy, that would be excessive and improper.</p> <p>7 Q. Based on your experience, if a dog is charging</p> <p>8 at a police officer from 5 feet away, does that police</p> <p>9 officer first have to assess whether the dog is showing</p> <p>12:24:18PM 10 any aggressive tendencies?</p> <p>11 MR. ABBAS: Objection as to form.</p> <p>12 BY MS. DAVIDSON:</p> <p>13 A. Yes. And as I've said, that could take a very</p> <p>14 short period of time. So an initial simply eyeball</p> <p>12:24:34PM 15 assessment provides important and essential information</p> <p>16 in making an assessment of why that dog and if the dog</p> <p>17 is even "charging" at them.</p> <p>18 Q. Do you train police officers to assess whether</p> <p>19 the dog is aggressive or not before they use force?</p> <p>12:24:58PM 20 A. Yes.</p> <p>21 Q. How much time should an officer spend in</p> <p>22 analyzing whether the dog is aggressive before defending</p> <p>23 himself?</p> <p>24 A. As I've said, the appreciation of threat</p>	<p style="text-align: center;">72</p> <p>1 5 feet, no.</p> <p>2 Q. Is it your opinion Officer Smith failed to</p> <p>3 consider whether Chyna was aggressive or not?</p> <p>4 A. It's my opinion that in the period of time</p> <p>12:27:59PM 5 that he had to observe the dog coming as he described,</p> <p>6 away from the staircase, crossing the sidewalk, crossing</p> <p>7 the street and approaching him within 5 feet, it's my</p> <p>8 opinion that he failed to adequately and properly assess</p> <p>9 the dog's behavior and instead reverted to what was</p> <p>12:28:23PM 10 probably an habitual response in going for immediate</p> <p>11 deployment of deadly force even though it was</p> <p>12 unnecessary and excessive.</p> <p>13 Q. Are there any circumstances under which there</p> <p>14 may not be time for an officer to assess whether a dog</p> <p>12:28:53PM 15 is aggressive?</p> <p>16 A. Certainly. A dog, for instance, could be</p> <p>17 standing directly next to or in contact with an officer</p> <p>18 and suddenly show threatening behavior. And at that</p> <p>19 distance, you know, there would be no time for the</p> <p>12:29:18PM 20 officer to assess that dog's change in behavior.</p> <p>21 Q. Are there any other circumstances?</p> <p>22 A. I can't think of one that would apply to this</p> <p>23 circumstance, no. We have a dog that was observed from</p> <p>24 some distance away and that took a period of time to</p>

<p style="text-align: center;">73</p> <p>1 close the distance to the officer. And that period of</p> <p>2 time gave the officer time to not only assess the dog's</p> <p>3 behavior but to form an alternate safer and reasonable</p> <p>4 response.</p> <p>12:30:04PM 5 Q. So in your view, at what point should Officer</p> <p>6 Smith have considered whether Chyna was displaying</p> <p>7 aggressive tendencies?</p> <p>8 A. From the very moment he saw it.</p> <p>9 Q. How would he have determined whether Chyna was</p> <p>12:30:31PM 10 displaying aggressive tendencies?</p> <p>11 A. By examining all the factors, including what</p> <p>12 her face was doing, what her tail was doing, how she was</p> <p>13 moving, whether she was actually coming at him or going</p> <p>14 past him. All of those factors should have added into</p> <p>12:30:51PM 15 the assessment of whether force, much less deadly force,</p> <p>16 was necessary.</p> <p>17 Q. Is it your opinion that Officer Smith's</p> <p>18 decision to discharge his firearm at Chyna -- is it your</p> <p>19 opinion that Officer Smith's decision to discharge his</p> <p>12:31:16PM 20 firearm at Chyna was inconsistent with police practices?</p> <p>21 A. It's my opinion that in this situation,</p> <p>22 Officer Smith's decision to discharge his firearm was</p> <p>23 inconsistent with what I have been provided as the</p> <p>24 Boston police department's policy.</p>	<p style="text-align: center;">75</p> <p>1 Q. What do you train officers to do when they</p> <p>2 encounter a dog?</p> <p>3 A. First, stand still. Because most times a</p> <p>4 rapidly approaching dog -- dogs have personal space just</p> <p>12:33:44PM 5 like people do. Those of us who are police officers</p> <p>6 probably have a little bit bigger space than someone who</p> <p>7 is a civilian who is all huggy and friendly. Dogs have</p> <p>8 a personal space.</p> <p>9 Typically when a dog does rapidly approach</p> <p>12:34:07PM 10 someone, especially if its in a position where the dog</p> <p>11 perceives a threat or is trying to protect resources,</p> <p>12 the dog typically comes up to four or 5 feet away and</p> <p>13 stops and barks and threatens and displays that warning</p> <p>14 behavior.</p> <p>12:34:28PM 15 Because it would be contraindicated for</p> <p>16 survival for dogs to, especially with a perceived threat</p> <p>17 larger than them, to automatically engage. A dog's</p> <p>18 purpose in displaying those behaviors is to gain space</p> <p>19 from whatever it's protecting or its own self or</p> <p>12:34:56PM 20 whatever, to gain space and to make the threat go away.</p> <p>21 The next response to a dog, if the threat is</p> <p>22 perceived as more virulent, if you will, or bigger than</p> <p>23 them would be if the dog can't make the threat go away,</p> <p>24 typically it then tries to find a way to get out of the</p>
<p style="text-align: center;">74</p> <p>1 Q. And why do you think that?</p> <p>2 A. Because the Boston police department policy</p> <p>3 stated, I can find my note right here, the discharge of</p> <p>4 a firearm by a member of the department is permissible</p> <p>12:32:01PM 5 only when there is no less drastic means available to</p> <p>6 defend one's self or another from unlawful attack.</p> <p>7 That's pretty clear.</p> <p>8 Q. So I believe I have listed opinion two. I put</p> <p>9 them together in some weird way. I think this is</p> <p>12:32:30PM 10 probably item three. In your opinion, is it your</p> <p>11 opinion that Officer Smith failed to use any form of</p> <p>12 less or nonlethal force towards Chyna before escalating</p> <p>13 to deadly force?</p> <p>14 A. Yes.</p> <p>12:32:46PM 15 Q. And what is the basis for that opinion?</p> <p>16 A. In the reports by the other officers, in his</p> <p>17 interview with the internal investigators and even his</p> <p>18 deposition, he never once mentions trying to use the OC.</p> <p>19 In fact, he omitted mentioning that to the initial</p> <p>12:33:07PM 20 investigators, that he was carrying it.</p> <p>21 He never mentions that he tried to use a baton</p> <p>22 or OC. The only thing he states is that he stepped</p> <p>23 backwards. But that in itself is not an adequate</p> <p>24 intervention.</p>	<p style="text-align: center;">76</p> <p>1 situation depending on the value of what it's</p> <p>2 protecting, if you will.</p> <p>3 So any animal, including humans, is using good</p> <p>4 judgment and doesn't have to do something else, if</p> <p>12:33:53PM 5 something bigger and scarier than it comes at it, its</p> <p>6 preferential response is to run away. If it's</p> <p>7 protecting a resource, then the animal has to decide</p> <p>8 whether the resource is worth the survival risk of</p> <p>9 getting injured or killed.</p> <p>10 And as such, the dog typically runs out and</p> <p>11 stops to see if less than direct contact is going to</p> <p>12 drive the potentially perceived threat away. And then</p> <p>13 the dog using the progression of force will most often</p> <p>14 engage briefly, in other words quick, limited, moderated</p> <p>12:36:22PM 15 bite and then back up to see if they have succeeded in</p> <p>16 making the scary thing go away.</p> <p>17 Q. Does the training of officers encountering an</p> <p>18 aggressive dog differ from the training given when they</p> <p>19 are just encountering a dog?</p> <p>12:36:43PM 20 A. I believe -- in my experience, the training on</p> <p>21 encountering dogs is pretty much assuming that the dog</p> <p>22 could potentially be a threat. And the training is or</p> <p>23 should be focused on perceiving that threat correctly</p> <p>24 and methods less than lethal force to address that</p>

<p style="text-align: center;">77</p> <p>1 potential problem.</p> <p>2 Q. Do you teach officers defensive tactics when</p> <p>3 they are encountering a dog?</p> <p>4 A. Yes, I teach the use of a baton to gain space.</p> <p>12:37:33PM 5 I teach the method and use of deployment of OC spray. I</p> <p>6 teach them the mechanics and appropriateness of the use</p> <p>7 of the conducted electrical weapon. And as I said, I</p> <p>8 also teach the best recommendations on use of deadly</p> <p>9 force if necessary.</p> <p>12:38:00PM 10 Q. What type of force is recommended to use on a</p> <p>11 hostile animal?</p> <p>12 A. If the animal is actually hostile, then just</p> <p>13 like with humans when they are hostile, one uses the</p> <p>14 least amount of force necessary to either defend one's</p> <p>12:38:24PM 15 self or to in the case of a human to effect an arrest,</p> <p>16 for instance.</p> <p>17 We don't shoot people -- if we tell someone to</p> <p>18 put their hands behind their back and they slow down</p> <p>19 just a minute, we don't automatically shoot them. We</p> <p>12:38:39PM 20 instead use the minimum force necessary to effect that</p> <p>21 arrest.</p> <p>22 With a dog, we use the minimum force necessary</p> <p>23 to make the dog run away since -- unless you're an</p> <p>24 animal control officer and then your job is to capture</p>	<p style="text-align: center;">79</p> <p>1 maybe a threat, maybe not, to someone that's telling</p> <p>2 them to do something they no longer do. Okay, I'll sit.</p> <p>3 So, yeah, using just like we would use with a</p> <p>4 human being, Sir, you're under arrest, put your hands</p> <p>12:40:48PM 5 behind you, or Raise your hands, or Comply with what I'm</p> <p>6 telling you. That's the easiest, lowest force way of</p> <p>7 doing something.</p> <p>8 Q. Just so the record is clear since it's not</p> <p>9 going to pick up on how you're saying things</p> <p>10 unfortunately, when you teach officers how to use verbal</p> <p>11 commands, are you using I guess your voice in more of a</p> <p>12 stern tone?</p> <p>13 A. Yes. Within the police environment, the use</p> <p>14 of what is called the command tone or command voice is</p> <p>12:41:27PM 15 very widely known and used by probably most police</p> <p>16 officers most days in most places.</p> <p>17 It's kind of like the mom voice that you know</p> <p>18 between the time mom asking you to do something and</p> <p>19 telling you, Do it now, usually accompanied by your full</p> <p>12:41:48PM 20 name. Police officers know that.</p> <p>21 So, yes, I teach them keep your command brief,</p> <p>22 make them stern if you will, use your command presence</p> <p>23 and make them specific. Don't have two officers</p> <p>24 standing there one saying sit, one saying down, like</p>
<p style="text-align: center;">78</p> <p>1 the dog, not to kill it.</p> <p>2 Q. Does the type of force that is used differ per</p> <p>3 animal?</p> <p>4 A. Absolutely.</p> <p>12:39:11PM 5 Q. So when we are talking about it, you're mainly</p> <p>6 referring to dogs, correct?</p> <p>7 A. Yes. For instance, I don't know if OC spray</p> <p>8 would work on a charging rhinoceros. No idea.</p> <p>9 Q. I want to go through all of the types of force</p> <p>12:39:32PM 10 that you have mentioned or the de-escalation tactics.</p> <p>11 You teach officers to use verbal commands?</p> <p>12 A. Yes.</p> <p>13 Q. And how do you teach them to use verbal</p> <p>14 commands? Can you explain that type of training?</p> <p>12:39:48PM 15 A. Very simply, the first place to start would be</p> <p>16 to tell the dog no or go away or go home. Also very</p> <p>17 effective sometimes is just looking at the dog and</p> <p>18 telling them to sit. Because lots of times dogs have</p> <p>19 been trained by their owners to sit.</p> <p>12:40:10PM 20 And if the dog is doing one thing and you tell</p> <p>21 it to sit, it's very likely if the dog has been trained</p> <p>22 to sit and then try to figure out what's going on.</p> <p>23 Because you've just changed the complexion of the</p> <p>24 situation from them perceiving you as a stranger and</p>	<p style="text-align: center;">80</p> <p>1 officers standing there and saying, "Raise your hands,</p> <p>2 put them down, don't move, move." We don't want to</p> <p>3 confuse things.</p> <p>4 Q. What is the next tier, the next tactic that</p> <p>12:42:22PM 5 would be used?</p> <p>6 A. As part of that verbal command, I also teach</p> <p>7 the awareness of and the changing of body position. For</p> <p>8 instance, if you are directly facing a dog frontally,</p> <p>9 that to a dog can present a threat posture.</p> <p>10 But if the officer turns or blades their body</p> <p>11 45 degrees like they are taught to do in many, many,</p> <p>12 many situations, such as speaking to a potential</p> <p>13 suspect, dealing with a noncompliant person, if they use</p> <p>14 that, it happens that that change of body position is</p> <p>12:43:14PM 15 the change that dogs also use and understand in that it</p> <p>16 sends what we generally call an appeasement or</p> <p>17 de-escalation signal.</p> <p>18 It says in dog terms I don't want to challenge</p> <p>19 you. I don't want to fight. I'm not necessarily going</p> <p>12:43:34PM 20 away, but I don't want to escalate this. In fact, let's</p> <p>21 start negotiating a de-escalation.</p> <p>22 At the same time, I teach the officers to not</p> <p>23 look the dog directly in the eyes because that is a</p> <p>24 challenge between dogs and other creatures, but to look</p>

<p style="text-align: center;">81</p> <p>1 perhaps at their shoulder or just past them so the dog 2 does not perceive a threat there.</p> <p>3 I also teach them if their hands were up or 4 moving around to keep them closer to their body. A, so 5 they can deploy less lethal tools if needed; but B, so 6 they present both a smaller target and a less 7 threatening appearance to the dog.</p> <p>8 So those tactics kind of go at the same time 9 as the verbal. Things like making sure that you're not 10 deliberately showing your teeth, that you're not making 11 forward movements or really moving at all but instead 12 you are standing your ground and you are telling the dog 13 in terms the dog understands that you're not intending 14 to be a threat.</p> <p>15 Q. What would be the next tactic that is taught? 16 A. If you have an object such as a baton or a 17 clipboard or you can reach the top of a garbage can or a 18 piece of something in the area, use that as an 19 intervention between yourself and the dog and by doing 20 so keep distance from the dog.</p> <p>21 Q. What would be next after the baton or use of 22 an object? 23 A. Next after that, my preference is to go to the 24 deployment of OC or pepper spray. Again, a two or three</p>	<p style="text-align: center;">83</p> <p>1 be fully justified in using the baton to strongly strike 2 or use, whether it's a baton or a garbage can or any 3 kind of an object, at that point impact weapon, 4 aggressive use of an impact weapon would be fully 5 understandable and within expected practices.</p> <p>6 Q. Are you referring to TASERS when you refer to 7 the electronic -- 8 A. Yes, conducted weapons, the brand name is 9 TASER. I don't know if anyone else makes them, but 10 yeah. Technically it's a conducted electrical weapon.</p> <p>11 Q. And then as it continues up the ladder as we 12 go, what would be the next thing? 13 A. The next step at that point would be to use 14 whatever means necessary, including a firearm if 15 necessary to protect one's self or to protect a member 16 of the public directly.</p> <p>17 Q. Are officers taught to kick an animal or a dog 18 to de-escalate the use of force? 19 A. As far as I know, we don't actively kick, 20 teach directly kicking because that places the officer 21 on one foot and off balance. And then potentially if 22 the dog grabs the kicking foot, the officer could fall 23 down. 24 However, kicking would be an option if the dog</p>
<p style="text-align: center;">82</p> <p>1 second blast in the face of the dog is extremely 2 effective. It typically -- in every instance I've seen 3 it deployed, it stops the dog in their tracks. The 4 dog's response is confusion and discomfort from the 5 contact of the active ingredients of the OC spray with 6 their eyes, their mucus membranes in their nose, the 7 membranes in their mouth, the surface of their face.</p> <p>8 It's painful. I've been sprained many times. 9 It hurts. Typically they stop, and the typical response 10 at that point is to retreat and try to find some place 11 or something to try to wipe the painful substance from 12 their face.</p> <p>13 Q. Have you ever seen or heard of a dog becoming 14 aggressive after they have been sprayed with OC spray? 15 A. No. 16 Q. What is the next tactic after OC spray? 17 A. If the officer is in possession of a conducted 18 electrical weapon and has been trained on the use of it, 19 then that would be the next step up the ladder of force 20 escalation, if you want to use that term.</p> <p>21 If they don't have that, then at that point I 22 would if they have an object, again like a baton, at 23 that point then instead of using it as a target or an 24 intervention to gain space, then I would say they would</p>	<p style="text-align: center;">84</p> <p>1 has closed that far and you're busy trying to get 2 another tool into play. I prefer they didn't. Most 3 officers are wearing boots of one sort or another that 4 will protect some. But again, I don't want a dog 5 grabbing someone's foot and them going down and perhaps 6 maybe they hit their head, maybe they accidentally deploy 7 another tool at uninvolved or nonthreatening parties.</p> <p>8 You fall down, there's a lot that can go 9 wrong. Officers have killed people unintentionally when 10 they fall down.</p> <p>11 Q. What about using a bean bag shotgun? 12 A. If you've got one, it's a great option. That 13 would be somewhere around the same level as using the 14 TASER, as using an actual impact weapon to strike a dog.</p> <p>15 Bean bags are great tools. Especially if one plans in 16 advance to use them, for instance, such as in a search 17 warrant.</p> <p>18 Q. Have you trained any officers to use fire 19 extinguishers? 20 A. Yes. And in fact, the use of fire 21 extinguishers is, for instance, standard policy for the 22 Los Angeles police department and has been for a bunch 23 of years. When their officers go into homeless camps 24 because there are often loose and stray dogs that are</p>

<div>85</div> <div> <p>1 protective of their territory, they are actually, the</p> <p>2 last I knew, required of one of the two officers to go</p> <p>3 carry a fire extinguisher. They are extremely</p> <p>4 effective.</p> <p>12:50:59PM 5 They make a loud noise. They make a visual</p> <p>6 barrier. And in the case of using a carbon</p> <p>7 dioxide-based fire extinguisher, it's also a sudden</p> <p>8 blast of cold. It tends to make the dog run away. The</p> <p>9 dog doesn't know what it is, so they want to be</p> <p>12:51:20PM 10 somewhere else.</p> <p>11 Q. Are there any other types of tactics you train</p> <p>12 police officers on to de-escalate?</p> <p>13 A. The use, like I said before, the use of</p> <p>14 improvised objects to intervene between themselves and</p> <p>12:51:38PM 15 the dogs. And that can be anything from a hose with</p> <p>16 water to shoot. If you've got a cup of coffee in your</p> <p>17 hands, throw the coffee in the dog's face.</p> <p>18 Improvising those tools that are highly</p> <p>19 unlikely to cause death or serious injury are very often</p> <p>12:52:04PM 20 effective. Especially in my time, not only as a police</p> <p>21 officer, I was able to deter dogs and in 2-1/2 years</p> <p>22 never once shot a dog.</p> <p>23 In my time as an animal control officer,</p> <p>24 animal control director, we weren't armed. Just like</p> </div>	<div>87</div> <div> <p>1 down, a situation that with protective gear I have been</p> <p>2 involved in, if it's clear and you can safely do so, do</p> <p>3 whatever you have to do to survive and go home at the</p> <p>4 end of the day.</p> <p>12:54:23PM 5 Q. Do you believe that officers are only entitled</p> <p>6 to use deadly force as a last resort when encountering a</p> <p>7 dog that may be aggressive?</p> <p>8 A. Yes.</p> <p>9 Q. In other words, officers are required to use</p> <p>12:54:37PM 10 less than lethal force first?</p> <p>11 A. A situation sometimes can be immediately</p> <p>12 developing. But in general, yes. As the Boston police</p> <p>13 department policy says, they should have exhausted all</p> <p>14 other methods of intervening. There should be no less</p> <p>12:55:08PM 15 drastic means available to defend one's self.</p> <p>16 Q. In the incident that we are here about today</p> <p>17 regarding Chyna, what do you believe that Officer Smith</p> <p>18 should have done?</p> <p>19 A. The first thing he should have done is when he</p> <p>12:55:22PM 20 saw the dog, instead of drawing his side arm</p> <p>21 immediately, he should have availed himself of his</p> <p>22 pepper spray. And then as the dog got closer, held his</p> <p>23 position, changed his body stance slightly to a less</p> <p>24 threatening and be prepared to spray.</p> </div>
<div>86</div> <div> <p>1 most of the animal control officers in the United States</p> <p>2 are not armed and authorized to use firearms. And yet</p> <p>3 they deal with everything from injured puppies to</p> <p>4 blatantly aggressive dogs with dog bite histories all</p> <p>12:52:44PM 5 over the country multiple times every day and none of</p> <p>6 them shoot dogs. There's a lot of ways to deal with</p> <p>7 them.</p> <p>8 Q. And in what instances do you train police</p> <p>9 officers to use deadly force when encountering a dog?</p> <p>12:52:57PM 10 A. If there is no other way to protect themselves</p> <p>11 or to protect someone who is immediately engaged. The</p> <p>12 example I use, and I think I mentioned it before, if the</p> <p>13 officer walks around the corner and there's a dog that</p> <p>14 is actively engaged, whether it's an adult or a child,</p> <p>12:53:22PM 15 in biting and dragging and shaking and injuring this</p> <p>16 person, clearly then if they have a clear shot and if</p> <p>17 their department's policies allow them to do so to save</p> <p>18 a life, take the shot.</p> <p>19 Q. In what instances do you train officers to use</p> <p>12:53:46PM 20 deadly force when encountering a dog that may be</p> <p>21 aggressive? Does it differ from what just stated?</p> <p>22 A. No. If the dog has come up and has grabbed</p> <p>23 onto the officer. For instance, in an extreme case has</p> <p>24 grabbed the officer and is shaking him, pushing him</p> </div>	<div>88</div> <div> <p>1 And then when the dog -- I wouldn't have a</p> <p>2 problem if he sprayed the dog 15 or 20 feet away, which</p> <p>3 is the recommended effective range of pepper spray.</p> <p>4 Because even if the dog was not objectively threatening</p> <p>12:56:08PM 5 him at that time, the very worse outcome would be the</p> <p>6 dog would run home yelping.</p> <p>7 The department might have to pay for a bath</p> <p>8 for the dog or at least have the dog's owner bring the</p> <p>9 dog over and take a bottle of water and wash their face</p> <p>10 off and nobody would have been hurt.</p> <p>12:56:27PM 11 Q. Do you believe that there's anything else that</p> <p>12 Officer Smith could have done other than deploy his OC</p> <p>13 spray?</p> <p>14 A. He could have yelled at the dog to stop. He</p> <p>12:56:43PM 15 could have given the dog commands. Instead of</p> <p>16 retreating backwards, he could have moved sideways to</p> <p>17 see if the dog was actually running to someone or</p> <p>18 somewhere else.</p> <p>19 Remember, according to Officer Smith's</p> <p>12:57:01PM 20 testimony, he was facing to the front left of the</p> <p>21 residence from which Chyna allegedly emerged. His right</p> <p>22 side was towards the house. His left side was towards</p> <p>23 what the photographs reveal is Staston Street.</p> <p>24 But there's a street that ran besides him and</p> </div>

<div>89</div> <div> <p>1 away. I find it very possible that the dog due to the</p> <p>2 fireworks and the chaos and all the other people that</p> <p>3 all the officers have testified were running around, the</p> <p>4 dog may have just been looking to get out of Dodge and</p> <p>12:57:48PM 5 run down to the street.</p> <p>6 Maybe it saw someone it recognized. Maybe it</p> <p>7 just wanted to be anywhere else at the time. So by</p> <p>8 holding his ground, preparing to deploy less lethal</p> <p>9 force and observing for a bit longer, the dog may have</p> <p>12:58:06PM 10 just run past him.</p> <p>11 Especially considering the fact that both</p> <p>12 rounds he fired were from above and on the dog's left</p> <p>13 side, which means the dog was moving past him at the</p> <p>14 time the shots were fired.</p> <p>12:58:28PM 15 Q. Is it your opinion that Officer Smith mislead</p> <p>16 Sergeant Detective Perkins by not disclosing that he had</p> <p>17 OC spray?</p> <p>18 MR. ABBAS: Objection. Calls for</p> <p>19 speculation.</p> <p>12:58:43PM 20 BY MS. DAVIDSON:</p> <p>21 A. I'm going to say that I have not heard any</p> <p>22 recording of that conversation, nor have I seen a word</p> <p>23 for word transcript of that conversation. However, in</p> <p>24 the report, the investigating officer does not say that</p> </div>	<div>91</div> <div> <p>1 A. No, I did not.</p> <p>2 Q. Were you aware of what Boston police officers</p> <p>3 are required to carry on their belt?</p> <p>4 A. I have not seen an explanation of what the</p> <p>01:01:06PM 5 uniform requirements are for a Boston police officer,</p> <p>6 and/or if there is any difference between uniformed</p> <p>7 officers, plain clothes officers that are wearing</p> <p>8 tactical equipment and/or SWAT officers or detectives or</p> <p>9 whatever.</p> <p>01:01:25PM 10 Q. What would you do to advise a police officer</p> <p>11 to deter the threat of a dog charging at them?</p> <p>12 A. As I've said repeatedly, first thing is stand</p> <p>13 your ground, watch your body language, assess what the</p> <p>14 dog is doing. Prepare yourself immediately to use less</p> <p>01:01:44PM 15 or nonlethal means of deterrence with the understanding</p> <p>16 that firearms is a last option.</p> <p>17 Q. Why --</p> <p>18 A. Don't run.</p> <p>19 Q. Why do you think Officer Smith should have</p> <p>01:02:03PM 20 disclosed that he had OC spray on him?</p> <p>21 A. I believe that for a use of force</p> <p>22 investigation and in my experience in the investigations</p> <p>23 I conducted, I always asked what tools were present.</p> <p>24 No. 1, to make the sure the officer was in compliance</p> </div>
<div>90</div> <div> <p>1 Smith made any such statement.</p> <p>2 So my only conclusion based on that limited</p> <p>3 information is that Smith failed to inform the officer</p> <p>4 or that the officer omitted to record such a statement,</p> <p>12:59:27PM 5 which would have been essential for the accuracy of the</p> <p>6 investigation.</p> <p>7 Q. What are you basing this opinion off of?</p> <p>8 A. I'm basing it on reading the report of the</p> <p>9 investigating officer. He never says anything in the</p> <p>12:59:47PM 10 written report about the presence of OC. None of the</p> <p>11 other officers mention in their initial reports that</p> <p>12 Officer Smith had OC, whether they knew or not.</p> <p>13 But yet without hearing the actual testimony</p> <p>14 or hearing the recording of the testimony, I don't know</p> <p>01:00:10PM 15 whether the investigating officer omitted that statement</p> <p>16 or whether Smith never made that statement.</p> <p>17 Q. Did you review or are you aware if you</p> <p>18 reviewed the entire Boston police firearm discharge</p> <p>19 investigation file?</p> <p>01:00:28PM 20 A. Yes, I did. I was provided that and so I</p> <p>21 reviewed all the information in that file as provided in</p> <p>22 discovery.</p> <p>23 Q. And did you listen to Officer Smith's IO</p> <p>24 interview with the firearm discharge investigation team?</p> </div>	<div>92</div> <div> <p>1 with department rules and regulations. No. 2, to see if</p> <p>2 they had other options available to them that they</p> <p>3 should have deployed first.</p> <p>4 So Officer Smith should have, if he did not,</p> <p>01:02:46PM 5 revealed all of the tools present, whether he had OC,</p> <p>6 whether he had a collapsable baton stuck in his pocket</p> <p>7 or on his vest, whether he had any other means of</p> <p>8 intervention.</p> <p>9 Q. Do you not think Sergeant Detective Perkins</p> <p>10 would be aware that Officer Smith had OC spray on him?</p> <p>11 A. I don't know if he was aware or not. I know</p> <p>12 he should have asked that specifically to ensure that it</p> <p>13 was part of the record.</p> <p>14 Q. Do you think that Sergeant Detective Perkins'</p> <p>01:03:28PM 15 outcome of his investigation would have been different</p> <p>16 if Officer Smith disclosed that he had OC spray on him?</p> <p>17 A. I can't speculate as to what Perkins' opinion</p> <p>18 would have been. I know that as a sergeant in the same</p> <p>19 position, presented with the same facts, I would have</p> <p>01:03:45PM 20 determined that Smith should have gone to less lethal</p> <p>21 force in order to fulfill the requirements of the Boston</p> <p>22 PD's policy.</p> <p>23 MS. DAVIDSON: Let's go off the record for</p> <p>24 a second.</p> </div>

<div>93</div> <div>1 (Lunch recess.)</div> <div>2 BY MS. DAVIDSON:</div> <div>3 Q. Mr. Crosby, is it your opinion that Officer</div> <div>4 Smith's use of deadly force was reckless and likely to</div> <div>01:28:29PM 5 cause injury to a injury to a civilian or other officers</div> <div>6 in the midst of a chaotic seen?</div> <div>7 A. In the scene as it was described, yes, I</div> <div>8 believe the use of the firearm in that environment was</div> <div>9 reckless.</div> <div>01:28:48PM 10 Q. And what's your basis for that opinion?</div> <div>11 A. There's too much going on. He had poor</div> <div>12 backdrop. Even shooting down, he was shooting at the</div> <div>13 hard surface of the road, which could have easily caused</div> <div>14 ricochet in any a number of directions.</div> <div>01:29:10PM 15 If the bullet went higher than he intended,</div> <div>16 there were houses behind in his line of fire that they</div> <div>17 did not know at the time if they were or were not for</div> <div>18 certain occupied.</div> <div>01:29:31PM 19 There were a minimum of six other police</div> <div>20 officers standing around in various positions. He had</div> <div>21 testified that he just had a group of somewhere between</div> <div>22 five and 15 young people that he had been high fiving.</div> <div>23 Those people were all potentially within the</div> <div>24 field of ricochet or within the line of fire had he</div>	<div>95</div> <div>1 choice. To be aware of the possibilities of ricochets.</div> <div>2 There are a lot of factors that you have to very quickly</div> <div>3 determine as to whether it's safe enough to engage the</div> <div>4 target and whether the danger presented by the target</div> <div>01:31:52PM 5 rises to such a level that it's basically worth the</div> <div>6 risks.</div> <div>7 Q. Based on your experience as a police officer,</div> <div>8 were you ever faced with a chaotic scene where you had</div> <div>9 to use force of any kind?</div> <div>01:32:10PM 10 A. Force of any kind, yes. In the incidents in</div> <div>11 which I chose to deploy deadly force in defense of</div> <div>12 myself or the other situations, all of those were in</div> <div>13 situations where there was not a chaotic scene. And I</div> <div>14 did over my career make many, many assessments not to</div> <div>01:32:37PM 15 use and discharge my firearm in a situation because of</div> <div>16 the chaotic nature of the scene, the lack of safe</div> <div>17 backdrop and the possibility of injury to another</div> <div>18 civilian or another officer.</div> <div>01:33:11PM 19 Q. Given that there was a chaotic scene, is it</div> <div>20 still your opinion that Officer Smith should have</div> <div>21 deployed his pepper spray?</div> <div>22 A. Absolutely. Because the effects of pepper</div> <div>23 spray, the targeting of the pepper stray is very limited</div> <div>24 even if there is wind. It doesn't, you don't use it</div>
<div>94</div> <div>1 missed his target. And as I mentioned, dogs are not as</div> <div>2 thick and dense because they are not the same size as</div> <div>3 human beings. And based on my experience, it is not at</div> <div>4 all unusual for an officer's shots to through and</div> <div>01:30:19PM 5 through, pass through a target of an animal the size and</div> <div>6 nature of a dog.</div> <div>7 Q. When you were reviewing documents in this</div> <div>8 case, did you review Officer Smith's deposition</div> <div>9 transcript?</div> <div>01:30:37PM 10 A. Yes.</div> <div>11 Q. In the deposition, do you recall if you saw</div> <div>12 where he had stated that he scanned to make sure there</div> <div>13 were no civilians around him?</div> <div>01:30:51PM 14 A. Yes, I did read that.</div> <div>15 Q. Based on your experience as a police officer,</div> <div>16 do you know what an officer is supposed to do before</div> <div>17 discharging their firearm?</div> <div>18 A. It depends on the department's policies. At</div> <div>19 the very least, the officer needs to scan for other</div> <div>01:31:10PM 20 objects or people in the line of fire, be aware and try</div> <div>21 to minimize the exposure of anybody in the backdrop of</div> <div>22 the line of fire.</div> <div>23 For instance, shooting at someone in front of</div> <div>24 a school bus full of children would be a really bad</div>	<div>96</div> <div>1 like spraying all over like a room deodorant. Instead,</div> <div>2 you target the object or person you are spraying it at.</div> <div>3 And if worse comes to worse and someone, be it yourself,</div> <div>4 another police officer or a civilian, get contaminated</div> <div>01:33:48PM 5 with the pepper spray, the studies have all shown that</div> <div>6 there is negligible to effectively zero risk of any</div> <div>7 permanent significant injury and that the remedy for</div> <div>8 anybody else who gets sprayed is you have EMS or someone</div> <div>9 in their front yard wash their face off and just tell</div> <div>01:34:12PM 10 them basically don't rub your eyes or anything for the</div> <div>11 next 30 to 45 minutes and you'll be fine.</div> <div>12 That's my experience with having been sprayed.</div> <div>13 You wash your face off. It's painful but you wash your</div> <div>14 face off, you rinse your eyes out and you're fine in</div> <div>01:34:29PM 15 about 45 minutes.</div> <div>16 Q. Do you think if Officer Smith deployed pepper</div> <div>17 spray in this instance that anyone else at the chaotic</div> <div>18 scene could have been affected by the pepper spray?</div> <div>01:34:45PM 19 A. Not in the way he described the proximity</div> <div>20 location as much as he did of the other people. I can't</div> <div>21 say that there's zero possibility because there's always</div> <div>22 a possibility of anything.</div> <div>23 But even in, even if that possibility had</div> <div>24 arisen, the odds or likelihood of that having caused any</div>

1 **significant anything to the people involved is very**
2 **small too.**

3 **Q.** Where should an officer aim when they use
4 deadly force on an animal?

5 **A.** **With an animal, a dog --**

6 **Q.** A dog specifically, yes.

7 **A.** **Center of mass in the chest or thorax. The**
8 **heads of dogs, the skull bones are extremely thick. I**
9 **have seen even significant rounds such as the standard**
10 **40 caliber police issue bullets hit at even a slight**
11 **angle and be deflected from the dog's head. I teach**
12 **body center.**

13 **Q.** In your review of documents in this case, did
14 you review the photographs of Chyna that were taken by
15 the Boston police department firearm discharge
16 investigation team?

17 **A.** **Yes. I reviewed the photographs I was**
18 **provided, the color photographs and scans that I was**
19 **provided in discovery.**

20 **MR. ABBAS:** If I may interject? Would it
21 be appropriate to perhaps show the witness the
22 photographs? He was provided a copy of the color photos
23 that were used in Officer Smith's deposition, but for a
24 clean record --

1 **MS. DAVIDSON:** I'll take it they are the
2 one that I produced to you. Those are the ones that I
3 used in Officer Smith's?

4 **MR. ABBAS:** Yes.

5 **BY MS. DAVIDSON:**

6 **Q.** Can you see this?

7 **A.** **Yes.**

8 (Photograph marked for identification as
9 Exhibit No. 3.)

10 **MR. ABBAS:** I think this was an exhibit.

11 **MS. DAVIDSON:** I'm probably only going to
12 use one or two.

13 **BY MS. DAVIDSON:**

14 **A.** **I think this is labeled D 109 on what I'm**
15 **seeing here. Is that what you've got?**

16 **Q.** The one on my screen?

17 **A.** **Yes.**

18 **Q.** Yes, that's correct. So this will be marked
19 as Exhibit 3 of your deposition. Where do you see
20 bullet wounds on the dog, on Chyna, in this picture?

21 **A.** **Having seen all of the pictures I was provided**
22 **but also seeing this, what I'll call defect No. 1 or**
23 **entry wound No. 1, for description the dog is recumbent**
24 **on the dog's own right side.**

1 **We are looking at the left side of the dog.**
2 **And if in this picture you take a line from where the**
3 **dog's left foreleg makes the 90 degree bend upward and**
4 **the apparent hump, or the visible hump at the top of the**
5 **dog's shoulder that's probably the scapular or the spine**
6 **underneath there, along that line approximately**
7 **two-thirds of the way up there is a generally circular**
8 **defect or wound that shows some patent blood around it**
9 **and then blood that has apparently traveled from the**
10 **wound downwards ventrally towards the legs.**

11 **And there's like a red band of I believe it's**
12 **either blood or tissue that bisects that light colored**
13 **hole in the tissue. From there, from that defect if you**
14 **go cranial or forward from that slightly at an upward**
15 **angle, just visible here behind the back end of the**
16 **dog's left external ear where it's folded over, you can**
17 **barely see what's not clear but is a defect in this**
18 **photograph.**

19 **And that is the second visible entry wound**
20 **that is roughly circular and is consistent as far as**
21 **shape and beveling and so forth with a bullet entry**
22 **wound.**

23 **Q.** Do you know how many times Officer Smith
24 discharged his firearm?

1 **A.** **All the testimony seems to reflect three**
2 **discharges.**

3 **Q.** Looking at this picture marked as Exhibit 3,
4 would you agree with me that Officer Smith aimed at
5 Chyna's body center as you referred to it?

6 **A.** **On this side, yes. Unfortunately, the**
7 **documentation of Chyna's body is incomplete and**
8 **inadequate. There should have been pictures taken of**
9 **both sides of the dog, the dorsal and ventral or top and**
10 **bottom surfaces of the dog, a head-on shot of the dog's**
11 **head, face and teeth and a shot from the rear of the**
12 **dog.**

13 **So I can't say if there is another entry wound**
14 **on the nonvisible portions of the dog's body. So I**
15 **can't tell from this whether all of his rounds were**
16 **aimed at the same side and place of the dog.**

17 **Q.** Understandable. Given the two rounds that
18 were entry rounds that we are looking at in this picture
19 marked as Exhibit 3, you would agree with me that
20 Officer Smith did aim at Chyna's body center as you
21 describe it?

22 **A.** **I would actually say that one of the shots was**
23 **aimed generally at body center and the other shot seems**
24 **to be consistent with what Officer Smith described as**

<p style="text-align: right;">101</p> <p>1 shooting at the dog's head.</p> <p>2 Q. Is it your opinion that Chyna was trying to</p> <p>3 get to a familiar, trusted person among the chaotic</p> <p>4 scene with fireworks and that is why she did not divert</p> <p>01:42:46PM 5 towards any other officers?</p> <p>6 A. It's my opinion that that is a possibility</p> <p>7 that has to be seriously weighed because of the fact</p> <p>8 that Chyna did not appear to divert, change path or be</p> <p>9 interested in anyone other than Officer Smith.</p> <p>01:43:10PM 10 That is a conclusion that is consistent with</p> <p>11 the physical evidence and testimony given, that she was</p> <p>12 going, whether to another person or simply to a point of</p> <p>13 refuge away from the chaos.</p> <p>14 Q. What is the basis for that opinion?</p> <p>01:43:34PM 15 A. The fact that she did not engage with anybody</p> <p>16 other than Smith. She did not run at anyone other than</p> <p>17 Smith. None of the other officers present stated that</p> <p>18 she ran at or even noticed anybody but Smith.</p> <p>01:43:57PM 19 And Smith does not say that her attention was</p> <p>20 diverted, attracted to or otherwise focused on anybody</p> <p>21 else, including the raft of children that he said were</p> <p>22 with him moments before that he said ran away.</p> <p>23 Q. Do fireworks tend to scare dogs?</p> <p>24 A. Absolutely.</p>	<p style="text-align: right;">103</p> <p>1 that is an unusual and uncommon reaction to show</p> <p>2 aggression. Instead, they are most likely to show fear,</p> <p>3 avoidance, displacement, behaviors calculated to remove</p> <p>4 them from the scary situation.</p> <p>01:46:20PM 5 Q. Would a chaotic scene such as the one in this</p> <p>6 case affect a dog's behavior?</p> <p>7 A. As I just said, they are likely to become</p> <p>8 frightened, which means they are likely to try to run</p> <p>9 away.</p> <p>01:46:36PM 10 Q. And can a chaotic scene make a dog have</p> <p>11 aggressive tendencies?</p> <p>12 MR. ABBAS: Objection. Form. A chaotic</p> <p>13 scene can be --</p> <p>14 BY MS. DAVIDSON:</p> <p>01:46:55PM 15 Q. Can a chaotic scene such as the one in the</p> <p>16 case of the documents you reviewed make a dog seem</p> <p>17 aggressive or have aggressive tendencies?</p> <p>18 A. That's not my experience. My experience is</p> <p>19 mostly that the dog will show fear, avoidance and</p> <p>01:47:16PM 20 displacement behavior. They are going to want to run</p> <p>21 away.</p> <p>22 Q. Would a dog facing a chaotic scene like the</p> <p>23 one in this case and fireworks together, those two</p> <p>24 factors, become aggressive?</p>
<p style="text-align: right;">102</p> <p>1 Q. Why?</p> <p>2 A. They are sharp, irregular in spacing,</p> <p>3 unexpected. The dogs don't know that it's a holiday</p> <p>4 where people are going to be making loud noises. It's</p> <p>01:44:30PM 5 very widely known that fireworks scare an awful lot of</p> <p>6 dogs.</p> <p>7 Q. How do dogs typically react to loud noises</p> <p>8 such as fireworks?</p> <p>9 A. In my experience, dogs either actively hide or</p> <p>01:44:54PM 10 try and run away.</p> <p>11 Q. Can you describe a dog's behavior when</p> <p>12 reacting to loud noises such as fireworks?</p> <p>13 A. Again, they either hide -- in the case of one</p> <p>14 of my dogs, they try to crawl under the bed. Otherwise,</p> <p>01:45:15PM 15 they may be very uneasy and may even sit there and shake</p> <p>16 or whine and cry or look for reassurance.</p> <p>17 Or what is common and is well known in animal</p> <p>18 control circles is that dogs will panic and will</p> <p>19 suddenly run off in a direction that they may well</p> <p>01:45:36PM 20 perceive as being safer than where they are in an effort</p> <p>21 to simply get away from the scary noises.</p> <p>22 Q. Can loud noises such as fireworks allow a dog</p> <p>23 to become aggressive or have aggressive tendencies?</p> <p>24 A. In my observation and experience, it's not,</p>	<p style="text-align: right;">104</p> <p>1 MR. ABBAS: Objection. Form. I think</p> <p>2 fireworks is what helped make the scene chaotic. It's</p> <p>3 not like it's chaotic and then you have fireworks. It's</p> <p>4 the fireworks and the amount of civilians around.</p> <p>01:47:45PM 5 MS. DAVIDSON: I think that's your view.</p> <p>6 MR. ABBAS: That's what the fire discharge</p> <p>7 report says.</p> <p>8 MS. DAVIDSON: I think with all the people</p> <p>9 around and then the fireworks on top of it and given</p> <p>01:47:57PM 10 what happened that night it can all be put together.</p> <p>11 BY MS. DAVIDSON:</p> <p>12 Q. Do you want me to repeat the question?</p> <p>13 A. Go ahead and repeat the question.</p> <p>14 Q. Would a dog facing a chaotic scene such as the</p> <p>01:48:16PM 15 one we are here about today and fireworks make a dog</p> <p>16 aggressive?</p> <p>17 A. Aggressive most likely not. Fearful, very,</p> <p>18 very, very likely.</p> <p>19 Q. What makes dogs consider a person familiar?</p> <p>01:48:51PM 20 A. A variety of things. Either someone they have</p> <p>21 met before, someone that looks like someone they have</p> <p>22 met before, someone who is acting in an accepting and</p> <p>23 affiliative manner.</p> <p>24 There's plenty of times that, for instance, I</p>

<div>105</div> <div>01:49:35PM</div> <p>1 deal with dogs and call them over to me and they come</p> <p>2 over and they are very friendly and accepting. They can</p> <p>3 tell that I seem to not present a threat. Dogs are</p> <p>4 defined in the literature as an affiliative and</p> <p>5 gregarious creature, which means they like each other's</p> <p>6 company and they like human company.</p> <p>7 So it's not necessarily a matter that a dog</p> <p>8 might perceive you as familiar, they might perceive you</p> <p>9 as a nonthreatening human that's worth checking out to</p> <div>01:49:52PM</div> <p>10 see if you got cookies.</p> <p>11 Q. Do you think Chyna was approaching Officer</p> <p>12 Smith as a familiar, trusted person to her?</p> <p>13 A. I'm not convinced that Chyna was intentionally</p> <p>14 approaching Smith in any way. I think, I believe that</p> <div>01:50:12PM</div> <p>15 Chyna based on the evidence we have was simply running</p> <p>16 away seeking a means to avoid or dispel the fear she was</p> <p>17 feeling.</p> <p>18 Q. Why do you think Chyna was crossing the street</p> <p>19 away from her home?</p> <div>01:50:45PM</div> <p>20 A. Because based on what has been said and based</p> <p>21 on the testimony of Officer Smith and the others, I</p> <p>22 think the door was closed. I think she was out on the</p> <p>23 porch. She reached a point where she was uncomfortable</p> <p>24 to the level that she had to do something in her mind.</p>	<div>107</div> <div>01:52:55PM</div> <p>1 charging at someone, can that be seen as an aggressive</p> <p>2 tendency?</p> <p>3 A. By whom?</p> <p>4 Q. To that person that they are charging at?</p> <p>5 A. People can perceive actions in a number of</p> <p>6 different ways. Is that behavior by itself indicative</p> <p>7 of an aggressive response by a dog, no.</p> <p>8 Q. Based on your experience, when a dog is</p> <p>9 panting, snarling and growling, is that dog displaying</p> <div>01:53:22PM</div> <p>10 aggressive tendencies?</p> <p>11 A. That's actually very common from a stressed</p> <p>12 dog, a dog that is highly uncomfortable in the situation</p> <p>13 they are in. It does not necessarily and does not only</p> <p>14 occur as aggression, as part the aggressive complex. In</p> <div>01:53:45PM</div> <p>15 fact, the panting part of it makes me think much more</p> <p>16 strongly that it was a stress response.</p> <p>17 A dog panting is showing very rapid</p> <p>18 respiration. The growling sounds, if there were any</p> <p>19 that accompanied that, could have been from a dog</p> <div>01:54:08PM</div> <p>20 breathing very hard and very quickly. We don't know if</p> <p>21 Chyna -- for instance, I've known dogs that when they</p> <p>22 are asleep and snoring it sounds like they are growling.</p> <p>23 I think in this situation considering the</p> <p>24 fireworks and the chaos of the scene, it's far, far more</p>
<div>106</div> <div>01:51:28PM</div> <p>1 And instead of running into the crowd or</p> <p>2 running to the house across the street or next door, she</p> <p>3 bolted for the only open space she had, which was across</p> <p>4 the street. She just wanted to get away as fast and far</p> <p>5 as possible.</p> <p>6 Q. And why do you think Chyna did not approach</p> <p>7 any other officer?</p> <p>8 A. Because she wasn't focused on the officers at</p> <p>9 all. She wanted to run away.</p> <div>01:51:43PM</div> <p>10 Q. Why do you think Chyna did not approach any</p> <p>11 other person that was outside?</p> <p>12 A. Same reason. She was not going out to</p> <p>13 approach anybody, at least that we are aware of, that</p> <p>14 was present there. She was just simply trying to run</p> <div>01:52:13PM</div> <p>15 away from a scary situation.</p> <p>16 Q. Have you ever seen a dog hold eye contact with</p> <p>17 someone for a long time?</p> <p>18 A. Yes.</p> <p>19 Q. What typically does that behavior mean?</p> <div>01:52:13PM</div> <p>20 A. In my experience, the holding of eye contact</p> <p>21 for, you know, an extended period of time is when a dog</p> <p>22 is either unwilling to back down from a challenge or is</p> <p>23 issuing its own challenge.</p> <p>24 Q. Based on your experience, when a dog is</p>	<div>108</div> <div>01:54:46PM</div> <p>1 likely this was evidence of stress, not of any</p> <p>2 aggressive action.</p> <p>3 Q. So based on your experience, when a dog is</p> <p>4 stressed, is that dog displaying aggressive tendencies?</p> <p>5 A. No. A stressed dog is not displaying</p> <p>6 aggressive tendencies. It may be showing some of the</p> <p>7 behaviors, like, for instance, having its mouth open.</p> <p>8 But having the mouth open itself is not an indication of</p> <p>9 aggression. Breathing heavily is more related with</p> <div>01:55:07PM</div> <p>10 stress than it is with the aggressive behaviors. So,</p> <p>11 no, this sounds much more like a stressed, frightened</p> <p>12 dog.</p> <p>13 Q. Based on your experience, when a dog is</p> <p>14 frightened, do they display aggressive tendencies?</p> <div>01:55:27PM</div> <p>15 A. No, they display fearful behaviors. Some of</p> <p>16 those may intersect with some of the behaviors from</p> <p>17 aggression but typically not. Then again, panting,</p> <p>18 breathing heavily, those kind of, even if they are</p> <p>19 vocalizing because of the rapid, panicked breathing,</p> <div>01:55:51PM</div> <p>20 those are all consistent with a fearful dog.</p> <p>21 Fearful dogs also growl to ask people in their</p> <p>22 terms to get out of their way. Please, leave me alone.</p> <p>23 I don't want to be bothered. I'm scared stupid here.</p> <p>24 Q. Based on your experience, when a dog is</p>

<div>109</div> <div> <div>1</div> <div>feeling threatened, do they display aggressive</div> </div> <div> <div>2</div> <div>tendencies?</div> </div> <div> <div>3</div> <div>A. They may display defensive type behaviors as</div> </div> <div> <div>4</div> <div>warnings to not approach any further. That's not</div> </div> <div>01:56:24PM <div>5</div> <div>aggression. That is communicating with another party</div> </div> <div> <div>6</div> <div>please leave me alone, I'm stressed, I'm frightened, go</div> </div> <div> <div>7</div> <div>away.</div> </div> <div> <div>8</div> <div>Q. What are the behaviors that a dog shows when</div> </div> <div> <div>9</div> <div>it is feeling frightened?</div> </div> <div>01:56:43PM <div>10</div> <div>A. The dog will avert its eyes, turn its head,</div> </div> <div> <div>11</div> <div>may turn its body orientation. It's very common if</div> </div> <div> <div>12</div> <div>given room and unable to seek shelter in a familiar,</div> </div> <div> <div>13</div> <div>safe place to flee very rapidly and actively towards</div> </div> <div> <div>14</div> <div>anything that looks like a way to get somewhere else</div> </div> <div>01:57:08PM <div>15</div> <div>where they are not going to be trapped in.</div> </div> <div> <div>16</div> <div>If they are stationary and, for instance, they</div> </div> <div> <div>17</div> <div>get up against an object or a corner, they will lower</div> </div> <div> <div>18</div> <div>their body posture. People typically call it cowering</div> </div> <div> <div>19</div> <div>down. Fearful dogs will pant. Fearful dogs increase</div> </div> <div>01:57:34PM <div>20</div> <div>their respiration.</div> </div> <div> <div>21</div> <div>You will see their pupils are highly dilated</div> </div> <div> <div>22</div> <div>because they are going into fight or flight mode,</div> </div> <div> <div>23</div> <div>preferring flight. And as such, their pupils dilate to</div> </div> <div> <div>24</div> <div>gather as much data from their surroundings as possible.</div> </div>

<p style="text-align: center;">113</p> <p>1 eyes, usually showing the sclera or white area around it</p> <p>2 much more than normal, it looks away, it diverts its</p> <p>3 body. If it's running away, it's simply showing</p> <p>4 whatever posture it has to rapidly move itself away from</p> <p>02:02:58PM 5 the situation.</p> <p>6 Q. And based on your experience, what is a dog's</p> <p>7 posture like when it's feeling scared?</p> <p>8 A. It's not engaging with any particular person</p> <p>9 unless it's running to that person. It's moving</p> <p>02:03:16PM 10 rapidly. The tail may be moving with its gate or not.</p> <p>11 Its head may be down somewhat as it's seeking to push</p> <p>12 itself through a position of safety.</p> <p>13 It's unlikely to be showing a closed mouth</p> <p>14 because it's breathing heavily. But it's also unlikely</p> <p>02:03:40PM 15 to be deliberately showing the upper and lower teeth in</p> <p>16 a posture of threat.</p> <p>17 Q. Is it your opinion that a child's behavior is</p> <p>18 consistent with a dog that is frightened and looking for</p> <p>19 a familiar safe person?</p> <p>02:03:57PM 20 A. Safe person or safe place, yes.</p> <p>21 Q. What do you mean by a safe person or safe</p> <p>22 place?</p> <p>23 A. A safe person could be someone that the dog</p> <p>24 knows or has had positive interactions with. A safe</p>	<p style="text-align: center;">115</p> <p>1 looking for Shirley. I think she was simply looking for</p> <p>2 something or someone safe. I'm going to change a plug</p> <p>3 here in a second, I'm losing my power.</p> <p>4 Q. Why would Chyna not have stopped after she ran</p> <p>02:07:00PM 5 through Shirley's arms on the porch if she was looking</p> <p>6 for her?</p> <p>7 A. I think that perhaps Chyna may have been</p> <p>8 simply getting away from the area rather than seeking</p> <p>9 Shirley. The whole situation was threatening enough</p> <p>02:07:24PM 10 that -- owners like to think that their dog is going to</p> <p>11 come looking for them if they are frightened enough.</p> <p>12 But the dog may not have perceived, due to the</p> <p>13 chaos at the scene and fireworks may not have perceived</p> <p>14 being around Shirley safe enough.</p> <p>02:07:42PM 15 Q. What types of things cause a dog to shake?</p> <p>16 A. A number of things. Fear. Shaking is the</p> <p>17 result of a physiological state of arousal. That's one</p> <p>18 manifestation of it. Fear can cause shaking. Medical</p> <p>19 conditions can cause shaking. Seizure disorders cause</p> <p>02:08:14PM 20 shaking.</p> <p>21 Sometimes dogs will shake as a stress response</p> <p>22 prior, for instance, trying to get away from whatever is</p> <p>23 stressing them out or scaring them.</p> <p>24 Q. And what types of things cause a dog to</p>
<p style="text-align: center;">114</p> <p>1 place basically means anywhere other than where it</p> <p>2 perceives a threat.</p> <p>3 Q. And what is your basis for that opinion?</p> <p>4 A. That's from observation and experience over</p> <p>02:04:31PM 5 many years. Dogs don't know what's typically happening</p> <p>6 other places. So, for instance, they wouldn't</p> <p>7 understand that perhaps the entire city of Boston was</p> <p>8 firing off fireworks, but they do know that the place</p> <p>9 they are at presents what they perceive to be a threat.</p> <p>02:04:52PM 10 So they would just as soon be anywhere else.</p> <p>11 Q. What behaviors do dogs typically display when</p> <p>12 they are looking for a safe person or a safe place?</p> <p>13 A. Actively leaving wherever it is or whoever</p> <p>14 they are around to find such a position or person of</p> <p>02:05:21PM 15 safety. If it's a person they are going for, they will</p> <p>16 typically run as directly at them as possible to get</p> <p>17 over to someone that offers perceived safety or comfort.</p> <p>18 Q. Did you review plaintiff Shirley Goode's</p> <p>19 deposition when you reviewed documents in this case?</p> <p>02:05:46PM 20 A. Yes.</p> <p>21 Q. And she believed Chyna was looking for her.</p> <p>22 Is that correct?</p> <p>23 A. I did read and account for that. I can't say,</p> <p>24 for instance, that she was looking for Shirley or not</p>	<p style="text-align: center;">116</p> <p>1 display behaviors of growling?</p> <p>2 A. Growling is communication. Sometimes you have</p> <p>3 dogs that habitually growl just because that's how they</p> <p>4 like to vocalize. It's typically a warning behavior or</p> <p>02:08:52PM 5 it can be a sign of extreme distress or extreme fear.</p> <p>6 It just wants to get some place away from the threat.</p> <p>7 Q. And what types of things would cause a dog to</p> <p>8 be panting?</p> <p>9 A. Mostly stress and fear unless the dog had</p> <p>02:09:13PM 10 already been running a significant distance. I mean, on</p> <p>11 a hot day, five mile run, mile and a half, my dog is</p> <p>12 probably going to be panting by then.</p> <p>13 Q. What types of things would cause the dog to</p> <p>14 breathe heavily?</p> <p>02:09:30PM 15 A. Again, it can be stress, it can be exertion.</p> <p>16 Those are the most common. It could be from something</p> <p>17 like a medical, underlying medical condition like</p> <p>18 congestive heart failure. But most typically stress or</p> <p>19 fear.</p> <p>02:09:56PM 20 Q. What situation would cause a dog to be</p> <p>21 displaying behaviors of growling, panting, breathing</p> <p>22 heavily and shaking?</p> <p>23 A. Stress and fear would be the first one I go</p> <p>24 for.</p>

<div>117</div> <div>02:11:03PM</div> <div>1 Q. You state in your report that rapid and heavy</div> <div>2 respiration is common in highly stressed domestic dogs</div> <div>3 and can be accompanied by labored breathing sounds that</div> <div>4 could be mistaken as growling. Why is growling</div> <div>5 considered different in this situation?</div> <div>02:11:26PM</div> <div>6 A. I'm not sure that it is different. It's a</div> <div>7 lower rumbling sound that people tend to label as</div> <div>8 growling. But breathing heavily in a dog, just like</div> <div>9 breathing heavily in a person, can apparently from my</div> <div>10 experience cause activation of the vocal cords that may</div> <div>11 give a similar sound.</div> <div>02:11:48PM</div> <div>12 Q. Would a highly stressed dog show any other</div> <div>13 behaviors?</div> <div>14 A. Besides running away and panting?</div> <div>15 Q. Besides the ones we just went over, yes.</div> <div>16 A. It might if it was -- again, if it was a dog</div> <div>17 that was highly stressed and retreated into a corner</div> <div>18 seeking shelter, you would see very similar symptoms.</div> <div>19 You might see a little bit more.</div> <div>02:12:06PM</div> <div>20 For instance, if you closed, despite the</div> <div>21 warning behaviors, and got too close and reached for the</div> <div>22 dog, it might engage in snapping behavior in order to</div> <div>23 get you to stay away.</div> <div>24 Q. Could a highly stressed dog with these types</div>	<div>119</div> <div>02:14:41PM</div> <div>1 Q. To make sure we are on the same page, is it</div> <div>2 your opinion that Officer Smith did not have enough</div> <div>3 experience to identify Chyna as a pit bull?</div> <div>4 A. That is correct. The identification of pit</div> <div>5 bull as a breed is fraught with all kind of problems,</div> <div>6 including the fact we can't all agree between two people</div> <div>7 what a pit bull is or isn't.</div> <div>8 I don't think he had enough qualification to</div> <div>9 place any kind of assignment of breed or predominant</div> <div>10 breed on a dog.</div> <div>02:15:00PM</div> <div>11 Q. Is it your opinion that Officer Smith only</div> <div>12 used deadly force because Chyna was a pit bull?</div> <div>13 A. I think that Officer Smith used deadly force</div> <div>14 because he had not been trained how to properly use</div> <div>02:15:20PM</div> <div>15 anything else. He had not been trained how to perceive</div> <div>16 a dog's behavior, and he had not been trained that the</div> <div>17 modern and common myth about pit bills as somehow being</div> <div>18 super dogs or something different from other dogs, he</div> <div>19 had not received training that was in fact factually and</div> <div>20 scientifically incorrect.</div> <div>02:15:48PM</div> <div>21 Q. What is the basis for that opinion?</div> <div>22 A. The fact that he tries to say that somehow</div> <div>23 having, that Chyna being what he perceived as a pit bull</div> <div>24 and that that resulted in or caused the decision to use</div>
<div>118</div> <div>02:12:47PM</div> <div>1 of behaviors be described as aggressive?</div> <div>2 A. It's possible if someone was improperly or</div> <div>3 inadequately trained, they might have mistaken those</div> <div>4 behaviors. But a person that had any training at all</div> <div>5 should have seen the difference between fear behavior</div> <div>6 and any sort of offensive behavior.</div> <div>7 Q. How do you train officers to deal with a dog</div> <div>8 described as having rapid, heavy respirations with</div> <div>9 labored breathing sounds that sound like growling?</div> <div>02:13:08PM</div> <div>10 A. Stand still and/or back away slightly or</div> <div>11 simply get out of their way.</div> <div>12 Q. I will put this up for you to take a look at.</div> <div>13 I just want to confirm this. This is one of your</div> <div>14 opinions that I kind of -- I'm going to pull up Exhibit</div> <div>02:13:32PM</div> <div>15 2.</div> <div>16 Looking at Exhibit 2, your report, we just</div> <div>17 went over 6, 7 and 8 as being your opinion that Chyna's</div> <div>18 behavior is consistent with a dog that is frightened and</div> <div>19 looking for a familiar, safe person. Would you agree</div> <div>02:14:08PM</div> <div>20 with me that those three kind of fold into together as</div> <div>21 one opinion?</div> <div>22 A. Yes. He's seeking a familiar, safe person or</div> <div>23 simply seeking to flee the situation that has frightened</div> <div>24 him.</div>	<div>120</div> <div>02:16:27PM</div> <div>1 deadly force showed me that he is sadly uneducated and</div> <div>2 trained in actual dog realities. The fact that --</div> <div>3 If indeed he used that perception, then he,</div> <div>4 No. 1, I still don't know and can't tell you what breed</div> <div>5 Chyna is. And if his reaction is that he needs to shoot</div> <div>6 anything that has that general look, then again he's</div> <div>7 sadly misinformed and critically undertrained and</div> <div>8 improperly informed.</div> <div>9 Q. Connected with this opinion, is it your</div> <div>02:16:46PM</div> <div>10 opinion that Officer Smith factored in Chyna being more</div> <div>11 aggressive because she was a pit bull?</div> <div>12 A. Due to his statements, I think it is, he was</div> <div>13 not, I don't remember him being specifically asked, but</div> <div>14 I find it at least somewhat likely that his opinion of</div> <div>02:17:07PM</div> <div>15 Chyna's behavior was affected by his unknowledgeable and</div> <div>16 improper assignment of behavioral characteristics to</div> <div>17 Chyna based on what he thought she looked like.</div> <div>18 Q. Do you train officers to identify the breeds</div> <div>19 of dogs?</div> <div>02:17:30PM</div> <div>20 A. We discuss breed, but I do not train them to</div> <div>21 identify it because the science says in multiple studies</div> <div>22 that visual identification of breed or even predominant</div> <div>23 breed, both in professionals and in civilians, is only</div> <div>24 accurate approximately 26 percent of the time.</div>

<div>121</div> <div> <p>1 In other words, when people look at a dog and</p> <p>2 try to decide what breed it is, unless of course you're</p> <p>3 in a dog show, they are wrong three times out of four.</p> <p>4 And so what I do inform the officers is visual</p> <p>02:18:09PM 5 identification is highly problematic.</p> <p>6 When it comes to mixed breed, it's all over</p> <p>7 the map and that appearance genetically is not linked to</p> <p>8 the genes that establish behavior. And so even if</p> <p>9 something -- for instance, if the dog looks like a pure</p> <p>02:18:34PM 10 bred Labrador and you throw a ball for him, he may look</p> <p>11 at you and go, You want the ball, you go get it.</p> <p>12 Q. What makes someone capable of identifying a</p> <p>13 specific breed of a dog?</p> <p>14 A. The possession of a documented pedigree.</p> <p>02:18:59PM 15 Other than that, again according to the studies, and I</p> <p>16 was part of one of them, even canine professionals such</p> <p>17 as veterinarians, such as myself, such as trainers, such</p> <p>18 as behavior consultants, such as genetic researchers,</p> <p>19 animal control officers, we cannot reliably identify a</p> <p>02:19:18PM 20 breed based on taking a look at the dog.</p> <p>21 Breed is identified only by pedigree. And</p> <p>22 even the genetic testing that is out there is mostly for</p> <p>23 the purposes of entertainment. In most jurisdictions,</p> <p>24 if you have a breakdown that says your dog is 5 percent</p> </div>	<div>123</div> <div> <p>1 dogs are aggressive and dangerous and by encouraging the</p> <p>2 dogs to show those kind of behaviors.</p> <p>3 Q. Are pit bulls considered more aggressive?</p> <p>4 A. Scientifically, no. There are people who</p> <p>02:22:01PM 5 claim that but those claims, including my own research,</p> <p>6 all those claims are unfounded. And my own research has</p> <p>7 found that dogs labeled as pit bulls are not necessarily</p> <p>8 more or less likely to show aggressive cluster</p> <p>9 behaviors.</p> <p>10 They are like any other dogs. You got good</p> <p>11 ones, you got bad ones. I'm not going to defend them or</p> <p>12 condemn them.</p> <p>13 Q. It looks like from your experience you have</p> <p>14 rehabbed some fight dogs?</p> <p>02:22:34PM 15 A. Yes.</p> <p>16 Q. What breeds are mainly involved in that?</p> <p>17 A. The breeds that are involved in this country</p> <p>18 most common in dog to dog fighting tend to be labeled as</p> <p>19 pit bulls. They are not the only fighting dog, but they</p> <p>02:22:52PM 20 are the most common in the U.S.</p> <p>21 Q. And what are some behavioral characteristics</p> <p>22 that dogs generally have to cause significant injury or</p> <p>23 death?</p> <p>24 A. The bigger the dog, the bigger the hole they</p> </div>
<div>122</div> <div> <p>1 pit bull, 5 percent Great Dane and 90 percent Chihuahua,</p> <p>2 that's generally not acceptable in court as being</p> <p>3 definitive proof.</p> <p>4 Q. Do you know what type of dog Chyna was?</p> <p>02:19:56PM 5 A. She appears to be a brown brindle dog, pretty</p> <p>6 solid build and muscular and probably falls into the</p> <p>7 large category that civilians tend to lump as bully</p> <p>8 breeds. I don't know what kind of dog she is.</p> <p>9 Q. Are there any specific breeds of dogs that are</p> <p>02:20:39PM 10 considered more aggressive than others?</p> <p>11 A. Scientifically, no. All dogs have the</p> <p>12 potential and the ability of showing aggression cluster</p> <p>13 behaviors. There is no solid scientific data that shows</p> <p>14 any particular breed or group of breeds is more or less</p> <p>02:20:58PM 15 likely to bite or is more or less likely to respond with</p> <p>16 those aggressive behaviors.</p> <p>17 Q. Are you aware of reasons why people tend to</p> <p>18 consider pit bulls as more aggressive?</p> <p>19 A. A lot of that has to do I believe with the</p> <p>02:21:16PM 20 myth and unsubstantiated claims by people over a period</p> <p>21 of time that somehow these are bad dogs. And the</p> <p>22 display of those dogs in situations where the owners</p> <p>23 seem to be attempting to bolster their own social or</p> <p>24 aggressive appearance by making people believe their</p> </div>	<div>124</div> <div> <p>1 make when they bite. That's pretty much the common</p> <p>2 thread. Any dog can cause death and has done so, from</p> <p>3 Great Danes to Pomeranians.</p> <p>4 However, typically if you have a big dog with</p> <p>02:23:22PM 5 a big jaw, it has the ability to make a big hole. If</p> <p>6 you have a little dog with a little jaw, it makes a</p> <p>7 smaller hole. So it would have to either be lucky or</p> <p>8 work harder to cause the same amount of damage.</p> <p>9 Q. Are officers trained on these types of</p> <p>02:23:41PM 10 characteristics?</p> <p>11 A. In my training, yes. And in the trainings I'm</p> <p>12 aware of from Chicago and into the California post</p> <p>13 training, yes. We train them that the bigger dog is</p> <p>14 likely to cause a bigger hole, but it's not necessarily</p> <p>02:24:00PM 15 more likely to kill you.</p> <p>16 Q. In your opinion on this area, you refer to the</p> <p>17 levels of force I believe in your report in context of</p> <p>18 dogs having level of force. What do you mean by that?</p> <p>19 A. Which paragraph are you referring to? I would</p> <p>02:24:16PM 20 like to look at what I wrote because I may -- usually</p> <p>21 there are bite levels and then there are levels of force</p> <p>22 --</p> <p>23 Q. I'm going to share the screen. I believe it's</p> <p>24 paragraph 11. Right here.</p> </div>

<p>125</p> <p>1 A. Okay.</p> <p>2 Q. It's paragraph 11 on Exhibit 2.</p> <p>3 A. Paragraph 11, the final sentence says,</p> <p>4 "Studies have indicated pit bulls have no special levels</p> <p>02:24:58PM 5 of force or behavioral characteristic to make them</p> <p>6 anymore or less likely to cause significant injury or</p> <p>7 death."</p> <p>8 By level of force, I am referring to the myth</p> <p>9 that dogs labeled as pit bulls have some kind of</p> <p>02:25:15PM 10 incredible bite strength or bite force. A pit bull, a</p> <p>11 dog identified as a pit bull, I'm not sure what the</p> <p>12 criteria was in the study, but Doctor Brady Barr of the</p> <p>13 National Geographic Association and several others since</p> <p>14 have done scientific testing regarding bite strength,</p> <p>02:25:40PM 15 the amount of pressure a dog can put on a target.</p> <p>16 And those range from small dogs that have</p> <p>17 relatively smaller abilities to, for instance, a</p> <p>18 Labrador that can inflict roughly around a 125 pounds</p> <p>19 per square inch of pressure, to a human that can put in</p> <p>02:26:02PM 20 about 170 pounds of pressure, to what was tested as pit</p> <p>21 bulls which run about 238 pounds, to German Shepherds at</p> <p>22 about 305 pounds, to Rottweilers at about 308 to 330</p> <p>23 pounds, to other even larger, less common dogs like an</p> <p>24 Anatolian Shepherd. A dog called Ovcharka, it's a</p>	<p>127</p> <p>1 Boston police department should have animal encounter</p> <p>2 training, correct?</p> <p>3 A. Absolutely, yes.</p> <p>4 Q. What is the basis for that opinion?</p> <p>02:28:02PM 5 A. Because without animal, or specifically dog</p> <p>6 encounter training, the Boston police department is not</p> <p>7 only ignoring what has over the years become</p> <p>8 increasingly the standard for best practices endorsed by</p> <p>9 many groups, such as the National Sheriff's Association,</p> <p>10 the International Association of Chiefs of Police, the</p> <p>11 Department of Justice and others, so they are not</p> <p>12 meeting best standards or expected standards.</p> <p>13 And by doing that, they are needlessly</p> <p>14 exposing their officers and the public to unnecessary</p> <p>02:28:42PM 15 risk, both their officers from not understanding the</p> <p>16 realities of dog encounters and proper and progressive</p> <p>17 manners of defusing and dealing with these.</p> <p>18 They are also exposing the public to</p> <p>19 significant risk because the untrained officers seem to</p> <p>02:29:09PM 20 in the many cases I've looked into be more likely to</p> <p>21 proceed directly to deadly force, and that leads to</p> <p>22 exposure of themselves, other officers and the public in</p> <p>23 general to the collateral effects of use of deadly</p> <p>24 force.</p>
<p>126</p> <p>1 Russian dogs that runs about 200 pounds, the body does.</p> <p>2 And supposedly they run five, six, 700 pounds of</p> <p>3 pressure.</p> <p>4 There's a Turkish dog called a Kangal who is</p> <p>02:26:50PM 5 reported as having extremely high bite pressure. But</p> <p>6 pit bulls are nothing special. They are kind of right</p> <p>7 in the middle of similarly sized dogs.</p> <p>8 Q. Do you train police officers on these levels</p> <p>9 of force?</p> <p>02:27:03PM 10 A. Yes.</p> <p>11 Q. Now I'm focusing on opinion 12 I believe it</p> <p>12 is. Is it your opinion that the Boston police</p> <p>13 department should have animal encounter training?</p> <p>14 A. Yes, absolutely.</p> <p>02:27:22PM 15 Q. And I believe I kind of completed paragraphs</p> <p>16 12 and 13 of your report, which is Exhibit 2 for the</p> <p>17 record, they kind of go hand in hand together. Does</p> <p>18 that make sense to you?</p> <p>19 A. Yes, it does.</p> <p>02:27:38PM 20 Q. Do you want me to leave this up or can I take</p> <p>21 it down?</p> <p>22 A. I'm fine with taking it down if you would</p> <p>23 like.</p> <p>24 Q. You did say that it's your opinion that the</p>	<p>128</p> <p>1 Q. Are you aware of how many hours police</p> <p>2 officers have to be trained at the Boston police</p> <p>3 department academy?</p> <p>4 A. I'm not sure what Boston requires. I know</p> <p>02:29:38PM 5 that in Florida most -- when I went through minimum</p> <p>6 standards in Florida, I believe I got 960 hours of</p> <p>7 training. In the state of Florida and I believe what's</p> <p>8 standard around most of the country is 720 hours plus.</p> <p>9 I'm not sure what the state of Massachusetts</p> <p>10 Commission on Police Officers Standards and Training</p> <p>11 require or exactly how many hours the city of Boston</p> <p>12 requires for its officers.</p> <p>13 Q. As we sit here today, you're not aware of how</p> <p>14 many hours the Boston police department officers have to</p> <p>02:30:41PM 15 go through when they are in academy for training?</p> <p>16 A. No. I would assume that it was at least the</p> <p>17 national general standard of around 720 plus hours.</p> <p>18 Q. And are you aware of how much outside training</p> <p>19 police officers in Massachusetts have to complete a</p> <p>02:30:57PM 20 year?</p> <p>21 MR. ABBAS: A specific type of training or</p> <p>22 general?</p> <p>23 MS. DAVIDSON: General officer training.</p> <p>24 BY MS. DAVIDSON:</p>

<p>129</p> <p>1 A. I don't know.</p> <p>2 Q. Are the laws regarding the use of lethal force</p> <p>3 on a dog different in Florida than in Massachusetts?</p> <p>4 A. In Florida, we do not have a specific law that</p> <p>02:32:20PM 5 addresses police officers' use of force against dogs.</p> <p>6 We do have a law that allows a police officer under</p> <p>7 certain very limited circumstances if authorized by</p> <p>8 their department to use deadly force to dispatch a</p> <p>9 grievously injured or dying animal.</p> <p>02:32:45PM 10 That's the only provision that the state of</p> <p>11 Florida makes for shooting an animal outside of lawful</p> <p>12 licensed hunting. I don't know what Massachusetts says.</p> <p>13 Q. Did you research any of the Massachusetts laws</p> <p>14 for this case?</p> <p>02:33:01PM 15 A. I looked through it, and I don't remember</p> <p>16 seeing anything in the statutes about police</p> <p>17 specifically and use of deadly force on animals. But I</p> <p>18 pretty much scanned that because I'm not saying that</p> <p>19 Officer Smith's actions were against the criminal code.</p> <p>02:33:31PM 20 That would be something that your prosecutors would have</p> <p>21 to determine.</p> <p>22 Q. But sitting here today, you are not aware of</p> <p>23 any laws in Massachusetts regarding the use of lethal</p> <p>24 force on a dog?</p>	<p>131</p> <p>1 --</p> <p>2 Typically it's departments that have had an</p> <p>3 incident and then aggressively respond to such an</p> <p>4 incident by changing policies and training.</p> <p>02:35:47PM 5 Q. Is Massachusetts one of those states that it's</p> <p>6 required by legislation?</p> <p>7 A. Not to the best of my knowledge, no.</p> <p>8 Q. Is Massachusetts one of those states that you</p> <p>9 believe does it out of their responsibility?</p> <p>02:36:03PM 10 A. I believe there are jurisdictions in</p> <p>11 Massachusetts that do that. I don't know particularly</p> <p>12 the cities. I have fielded questions from various</p> <p>13 departments, usually smaller ones, that wanted</p> <p>14 information.</p> <p>02:36:19PM 15 And I have referred them to the free training</p> <p>16 available on the NSA DOJ website. I've also referred</p> <p>17 them to the Chicago Safe Humane in various places.</p> <p>18 Q. Is the Boston police department one of those</p> <p>19 jurisdictions that has reached out?</p> <p>02:36:39PM 20 A. I don't ever recall having spoken directly to</p> <p>21 the Boston police department.</p> <p>22 Q. I think we covered this in-depth earlier,</p> <p>23 correct me if I'm wrong, but what is animal encounter</p> <p>24 training?</p>
<p>130</p> <p>1 A. I don't recall any specifically, no.</p> <p>2 Q. Are you aware of the states that give dog</p> <p>3 encounter training to their police officers?</p> <p>4 A. There are six states who are required by</p> <p>02:33:58PM 5 legislation to do so. However, many others, varying</p> <p>6 from department to department, do give such training.</p> <p>7 If I can remember correctly, California, Oregon,</p> <p>8 Colorado, Texas, Louisiana. And Tennessee because they</p> <p>9 were the first one. Those all require such training.</p> <p>02:34:29PM 10 I know that such training is given on a</p> <p>11 statewide level, for instance, in Nevada. I know that</p> <p>12 it's given in a lot of cases in Georgia. I know that</p> <p>13 there is, it's given in the state of New York in various</p> <p>14 jurisdictions, including the New York police department.</p> <p>02:34:53PM 15 There is some that is done, again varying from</p> <p>16 department to department, through the Midwest, including</p> <p>17 the Chicago police department is regularly trained and</p> <p>18 retrained on dog encounters. So there are other</p> <p>19 jurisdictions in Florida.</p> <p>02:35:14PM 20 I've trained the trainers for the Miami Dade</p> <p>21 police department and the Holly Hill police department.</p> <p>22 I understand that -- again, there are other</p> <p>23 jurisdictions where it happens on, not a legislated but</p> <p>24 on a responsible response scattering of departments that</p>	<p>132</p> <p>1 A. The law enforcement dog encounter training is</p> <p>2 training that teaches the officers not to be experts but</p> <p>3 how to quickly evaluate and assess a dog's behavior, to</p> <p>4 understand the situations in which they are likely to</p> <p>02:37:16PM 5 come in contact with dogs.</p> <p>6 The means of controlling their own body</p> <p>7 language, posture and actions to defuse contacts with</p> <p>8 dogs and the tools available to them and methods of</p> <p>9 using those tools to resolve any kind of interaction</p> <p>02:37:39PM 10 with a dog in a peaceful and safe manner.</p> <p>11 Q. And that is a training that you have taught to</p> <p>12 police officers?</p> <p>13 A. Yes.</p> <p>14 Q. Is it your opinion that Officer Smith should</p> <p>02:37:50PM 15 have received animal encounter training after this</p> <p>16 incident?</p> <p>17 A. Before and after. But especially after,</p> <p>18 absolutely.</p> <p>19 Q. And what is the basis of your opinion?</p> <p>02:38:03PM 20 A. Because Officer Smith was involved in a</p> <p>21 situation where he had to, or not had to, where he chose</p> <p>22 to use deadly force in a situation that in my opinion</p> <p>23 was unnecessary and created a danger to other officers</p> <p>24 and the public.</p>

<div>133</div> <div> <p>1 And that recognizing, even if it was a</p> <p>2 situation where he had been correct, I believe that the</p> <p>3 Boston police department having at least at that point</p> <p>4 been made aware of the possibility of this happening</p> <p>02:38:42PM 5 should have proactively stepped in and not only trained</p> <p>6 the officers in general but perhaps sat down and had a</p> <p>7 talk with Officer Smith directly to ensure that he had</p> <p>8 the proper tools to do his job safely and properly in</p> <p>9 the future.</p> <p>02:39:02PM 10 Q. Are you aware of any other police departments</p> <p>11 that have officers take animal encounter training after</p> <p>12 an incident with an animal like in this case occurred?</p> <p>13 A. Sure, Miami Dade and Nye County police</p> <p>14 department, the Las Vegas police department. There's a</p> <p>02:39:20PM 15 number of departments around the country. That's why I</p> <p>16 was in Holly Hill, Florida. That's why I was at two</p> <p>17 different agencies in Louisiana.</p> <p>18 That's why I've been involved in training in a</p> <p>19 number of places, because the departments have responded</p> <p>02:39:40PM 20 proactively and a lot of times honestly because of</p> <p>21 public feedback and kickback that responded to train</p> <p>22 their officers so that again the officers, the civilian</p> <p>23 and the pets are safer.</p> <p>24 Q. What about after a lethal force against an</p> </div>	<div>135</div> <div> <p>1 witnesses said that. I don't know if they did, if they</p> <p>2 actually saw that or not.</p> <p>3 Q. Do you have any other opinions in this case</p> <p>4 that we have not yet discussed?</p> <p>02:42:28PM 5 A. At this point, no. I believe we have covered</p> <p>6 everything. Again, as I mentioned from the beginning,</p> <p>7 if other evidence comes up, other testimony comes up, I</p> <p>8 may have other or adapted opinions on specific portions</p> <p>9 of this.</p> <p>02:44:51PM 10 Q. I am going to take a few minutes and make sure</p> <p>11 that I've covered everything that I want to cover.</p> <p>12 (Brief recess.)</p> <p>13 BY MS. DAVIDSON:</p> <p>14 Q. In your experience with dog training, do you</p> <p>02:44:19PM 15 believe that a person can train their dog to be</p> <p>16 aggressive?</p> <p>17 A. Yes. Their dog can be trained to show</p> <p>18 offensive behavior. Look at the K-9 units in the Boston</p> <p>19 police department or anywhere else.</p> <p>02:44:34PM 20 Q. In your experience, do you believe that a</p> <p>21 person can train a dog to be aggressive but then train</p> <p>22 another dog to not be aggressive?</p> <p>23 A. Certainly.</p> <p>24 MS. DAVIDSON: Nothing further. I don't</p> </div>
<div>134</div> <div> <p>1 animal occurs, were some of those instances when the</p> <p>2 other police departments made them take the training?</p> <p>3 A. Most of the trainings after a shooting have</p> <p>4 been done where the deployment of a firearm resulted in</p> <p>02:40:28PM 5 the dog's death. There have been a few of them where it</p> <p>6 has resulted in significant injury to the dog but the</p> <p>7 dog didn't die and yet the departments also responded by</p> <p>8 initiating more aggressive measures to train their</p> <p>9 officers in dealing with these encounters.</p> <p>02:40:53PM 10 Q. I'm going to share the screen. This should be</p> <p>11 the last time. I just have a question on your report on</p> <p>12 Exhibit 2. On page three of your report at paragraph,</p> <p>13 item 12, you refer to non-police witnesses who stated</p> <p>14 that Chyna was stationary, not charging when Smith</p> <p>02:41:34PM 15 fired. Do you know what two non-police witnesses you're</p> <p>16 referring to?</p> <p>17 A. In this, I'm referring to Ms. Goode and the</p> <p>18 gentlemen who was with her. I believe both of them</p> <p>19 stated, I know Ms. Goode did absolutely, that their</p> <p>02:41:49PM 20 opinion was that Chyna was standing still.</p> <p>21 I'd have to weigh that since they were a good</p> <p>22 distance away and may or may not have seen everything</p> <p>23 that happened. Or maybe they did. So I simply</p> <p>24 mentioned that as being an issue that two non-police</p> </div>	<div>136</div> <div> <p>1 know if you have anything?</p> <p>2 MR. ABBAS: Just two questions I hope.</p> <p>3 CROSS-EXAMINATION BY MR. ABBAS:</p> <p>4 Q. My name is Daniel Abbas. I don't know that we</p> <p>02:45:12PM 5 have spoken before, but I represent Shirley and John</p> <p>6 Goode, the plaintiffs in this case.</p> <p>7 There's been a lot of testimony and in</p> <p>8 evidence describing the situation as a chaotic</p> <p>9 environment when the shooting of Chyna occurred. What</p> <p>02:45:27PM 10 I'm asking is, I guess the environment being chaotic,</p> <p>11 does that in any way negate or eliminate the</p> <p>12 responsibility of Officer Smith to use any less drastic</p> <p>13 means available to him to defend one's self or another?</p> <p>14 A. No. I would in fact say that a chaotic</p> <p>02:45:49PM 15 situation with a crowd and a lot of things going on, it</p> <p>16 really behooves the officer to take more care and more</p> <p>17 caution, simply because of the clear risk of collateral,</p> <p>18 unintended damage.</p> <p>19 Q. I'm not agreeing or in any way suggesting that</p> <p>02:46:17PM 20 Chyna was being aggressive, but let's say for the sake</p> <p>21 of argument we stipulated or agreed that Chyna was being</p> <p>22 aggressive. If that were the case, would Officer Smith</p> <p>23 have been required to use less drastic means available</p> <p>24 to him before deciding to use deadly force?</p> </div>

<div>137</div> <div>02:46:55PM</div> <p>1 A. According to the Boston police department 2 policy, that seems to be an indication based on that 3 statement. As far as requirement, as far as responsible 4 and reasonable action, he absolutely should have looked 5 for something else to do. Again, because we have got 6 testimony there were children around, there were people, 7 it was chaotic and fireworks going off.</p> <div>02:47:18PM</div> <p>8 And I have personally been in a very similar 9 situation where my officers were placed under fire and 10 as a result we had to exercise extra restraint because 11 of the risk of injury to civilians and non-involved 12 persons.</p> <div>02:47:42PM</div> <p>13 Q. I'm going to rephrase the question. The city 14 of Boston has Rule 303 Section 6A. I believe that rule 15 was cited in the report by the firearms investigative 16 team. The rule describes when an officer is permitted 17 to essentially discharge their firearm.</p> <div>02:48:01PM</div> <p>18 6A says, "There's no less drastic means 19 available to defendant one's self or another from 20 unlawful attack which an officer has reasonable cause to 21 believe could result in death or great bodily injury." 22 Presuming the reasonable cause to believe that 23 the situation that Officer Smith was in could result in 24 death or great bodily injury, if we assume that, would</p>	<div>139</div> <div>02:50:08PM</div> <p>1 hurt, including the dog. They would have been annoyed 2 basically by the contact of the OC active ingredient, 3 but there would have been no what I would call injuries. 4 Q. Essentially would you agree that even if Chyna 5 was trying to attack him, his use of deadly force in 6 that situation still was not appropriate under the rules 7 set out by the city of Boston?</p> <p>8 MS. DAVIDSON: Objection. 9 BY MR. ABBAS:</p> <div>02:50:18PM</div> <p>10 A. I would agree with that statement due to the 11 high risk of collateral serious, if not fatal, injury. 12 The officers involved in shooting at dogs even when they 13 were attacking have indeed killed both civilians and 14 other police officers.</p> <div>02:50:41PM</div> <p>15 So the risk of shooting at a small, moving 16 target in a crowd of people in a chaotic situation with 17 children present, there's just too much going against 18 the use of deadly force in that situation.</p> <div>02:51:16PM</div> <p>19 Q. Looking at the picture that was marked as 20 Exhibit 3. If you look at the photograph, you can see 21 one clear entry wound on the side of the dog, correct? 22 A. Yes. 23 Q. And just to clarify, that entry wound, is that 24 the left side of the dog?</p>
<div>138</div> <div>02:48:34PM</div> <p>1 that, with that being said, without agreeing that was 2 the case, would Officer Smith by the fact that he was 3 carrying pepper spray have complied with that provision 4 of the city of Boston's rules?</p> <div>02:48:49PM</div> <p>5 A. Are you saying would the use of pepper spray 6 have complied with that?</p> <p>7 Q. Yes.</p> <p>8 A. Yes, it is my opinion that had he deployed 9 pepper spray, understanding its high effectiveness and 10 low likelihood of significantly or even annoyingly 11 injuring much of anyone else, that that would have been 12 in compliance with that section of the Boston police 13 manual.</p> <div>02:49:08PM</div> <p>14 Q. Do you consider OC spray or pepper spray to be 15 a less drastic means?</p> <p>16 A. Absolutely. In police training, for instance, 17 they didn't shoot me, so I understood what it felt like 18 to get shot, but they did pepper spray me repeatedly. 19 So the effects of it, although they are very effective 20 on animals even more so than humans, the risk of any 21 injury down the road is extremely minimal.</p> <div>02:49:25PM</div> <p>22 Again, even if Officer Smith had done the room 23 deodorizer move with the pepper spray and pepper sprayed 24 everything within 25 feet, nobody would have gotten</p>	<div>140</div> <div>02:52:32PM</div> <p>1 A. Yes. 2 MR. ABBAS: No further questions. 3 REDIRECT EXAMINATION BY MS. DAVIDSON:</p> <p>4 Q. In your experience, when someone has a beware 5 of a dog sign at their front door displayed, does that 6 lead you to believe that they could have a dog that's 7 aggressive?</p> <p>8 MR. ABBAS: Objection. 9 BY MS. DAVIDSON:</p> <div>02:52:45PM</div> <p>10 A. Not particularly. I'm aware of many people in 11 many neighborhoods that put up beware of dog signs 12 because they want to make people think that maybe that's 13 a bad idea to break into their house.</p> <div>02:53:06PM</div> <p>14 But they may not have a big dog, they may not 15 have an aggressive dog. They may not have a dog at all. 16 I've seen more than a couple of those where, Oh, there 17 is no dog. We just put that up to scare people away.</p> <div>02:53:27PM</div> <p>18 Q. In my subpoena I sent to you and Attorney 19 Abbas, I had attached a Schedule A for documents to be 20 produced as well. I know it's weird, but did you bring 21 any of those documents with you today?</p> <p>22 A. No, I think I've provided them all. If 23 there's something you don't have, I will be glad to ASAP 24 send it to Mr. Abbas so that it's in your possession as</p>

1 soon as he can get it to you. Tell me what you want and
2 I'd be happy to send it.

3 Q. Thank you.

4 MS. DAVIDSON: I'm going to suspend for
5 the fact that he said he might form more opinions based
6 on evidence. I will suspend for today.

7 MR. ABBAS: Sure.

8 MS. DAVIDSON: Other than that, we are
9 done.

10 (Whereupon the deposition was suspended at
11 2:54 p.m.)

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1 ERRATA SHEET

2 I wish to make the following changes, for the
3 following reasons:

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24 JAMES W. CROSBY

1 SIGNATURE PAGE

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I, JAMES W. CROSBY, the witness herein, having
read the foregoing testimony of the pages of this
deposition, do hereby certify it to be a true and
correct transcript, subject to the corrections, if any,
shown on the attached page.

oOo

JAMES W. CROSBY

Signed under the pains and penalties of perjury.

1 CERTIFICATE

2 COMMONWEALTH OF MASSACHUSETTS)
3 PLYMOUTH COUNTY, ss.)

4 I, PATRICIA M. HAYNES, a Certified Shorthand
5 Reporter and Notary Public within the Commonwealth of
6 Massachusetts, do hereby certify:

7 That JAMES W. CROSBY, the witness whose
8 testimony is hereinbefore set forth, was properly
9 identified and duly sworn by me.

10 That the foregoing proceedings were taken down
11 by me stenographically and thereafter transcribed under
12 my direction and supervision, and that the within
13 transcript is a true record of such proceedings.

14 I further certify that I am not related to any
15 of the parties to this action by blood or marriage, and
16 that I am in no way interested in the cause or outcome
17 of this action.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this day of July, 2023.

20

21 _____
22 PATRICIA M. HAYNES

23 My Commission Expires: July 5, 2024

24

25

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